



MAYOR AND COUNCIL MINUTES
Regular Meeting and Budget Workshop

Tuesday, February 6, 2007
7:30 P.M.

BOROUGH HALL COUNCIL CHAMBERS

Municipal Place
Emerson, NJ 07630

Call to Order

This meeting was called to order at 7:38 p.m. Council President Loffredo led the salute to the flag followed by moment of silence at Mayor Lamatina's request.

O.P.M.A. Statement

Mayor Lamatina read the Sunshine Statement announcing that this meeting of February 6, 2007 had been adequately noticed and was in compliance to the to the provisions of the Open Public Meetings Law. Further, that the notice of the meeting was included the Annual Meeting Notice Resolution sent to the Bergen Record and Ridgewood News on December 14, 2006 and advertised in said newspapers; posted on the bulletin board in the Borough Hall, Municipal Place, Emerson, NJ 07630 on December 14th, 2006 and has remained continuously posted as the required notices under the Statute.

In addition, a copy of this 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
Councilwoman Marcia DeSalvo-Present
Councilman Christopher Heyer-Present
Councilman Kenneth Hoffman-Present
Council President Loffredo-Present
Councilman Francis P. Milone, Jr.-Present
Councilman Brian Todd-Present

Also present were Carol Dray, Borough Clerk, Joseph Scarpa, Borough Administrator, Ann (Nancy) Burns, CFO/Treasurer and Philip Boggia, Borough Attorney

1. Approval of Minutes:

- a) Councilman Todd moved to approve the meeting minutes of the Regular Meeting of December 27, 2006 with corrections, seconded by Councilman Milone and carried.
- b) Councilman Hoffman moved to approve the meeting minutes of the 2007 Reorganization with corrections, seconded by Councilwoman DeSalvo and carried.

7. CORRESPONDENCE

APPROVED 6/19/07

Mayor Lamatina announced that copies of the correspondence below were on file in the Office of the Municipal Clerk

#07-14 Letter received 1/22/07 re: Smart Growth Planning and Assistance Grants, ANJEC

#07-15 Letter received 1/26/07 re: 2006 Road Program, Job and Job

#07-16 E-mail received 1/29/07 re: Editorial on Shortage of EMS Volunteers, B. Todd

#07-18 Letter received 1/25/07; re: Request to install an awning, Tina Thompson

#07-19 Letter received 2/5/07; re: Municipal Storm Water Regulations, Job and Job

8. PROCLAMATIONS AND PRESENTATIONS

NJEA Read Across America

Mayor Lamatina announced the governing body's support of NJEA's campaign to promote reading with a proclamation that will be forwarded to the organization.

9. APPOINTMENT AND PERSONNEL CHANGES

- a) **Resignation-** Environmental Commission effective immediately
Councilman Hoffman **moved** to accept the resignation of Mr. Belli effective immediately, seconded by Councilman Heyer. All were in favor, none were opposed and motion was carried.
- b) **Appointment-** Environmental Commission effective immediately
Mayor Lamatina **appointed Thomas Browne** as a regular member of the Environmental Commission for the unexpired term ending 12/08 to replace Mr. Belli.

10. ORDINANCES-FIRST READING

1318-07 AN ORDINANCE REINSTATING COMPENSATION FOR THE MAYOR AND COUNCIL OF THE BOROUGH OF EMERSON FOR THE YEAR 2007

Motion: Heyer

Seconded: Loffredo

Roll call: Council Members

DeSalvo- **no**

Hoffman-**yes**

Todd-**no**

Loffredo-**yes**

Heyer-**yes**

Milone-**no**

Lamatina-**yes**

Mayor Lamatina voted in favor of the motion breaking the tie making Ordinance No. 1318-07 approved on first reading by a vote of 4-3 and would be further considered at a Public Hearing to be held on February 20th, 2007 at 7:30 p.m. in the Council Chambers in the Borough Hall at which time the public would be invited to speak. The ordinance

would be published in the February 9th edition of the Ridgewood News and be continuously posted on the official bulletin board in Borough Hall.

11. ORDINANCES-SECOND READING AND PUBLIC HEARING

None

12. NEW BUSINESS

Discussions:

a) 2007 Budget (Workshop session)

7:45 **Library** Mr. Bierman and the Library Director, Jodi Fulgione, came before the governing body to discuss the library's budget and thanked the Mayor and Council for attending the breakfast the previous weekend. Mr. Bierman was satisfied with what they had been receiving adding that they would not be seeking any additional monies and did not anticipate any major capital improvements this year. Ms. Fulgione remarked that library usage achieved a 23% increase in circulation and commended the governing body for supporting them in that effort. She echoed Mr. Bierman's assertion that they would be seeking just the minimum state mandated appropriation of \$433,197.00 and outlined the library's goals and outward projections. Councilwoman DeSalvo questioned if the replacement of the HVAC would be rolled into this year's budget and Mr. Bierman replied it would be in this year's municipal budget since it was done as an emergency expenditure last year.

8:00 **EVAC**-Dave Mason, Captain of the EVAC, reported that some radios and pagers were in need of replacement and mentioned that the Fire Department may recycle turnout gear to them for fire standbys and car accidents. He was researching the purchase of a new generator for approximately \$3,000 and a new ambulance to replace the old 1994 ambulance. The Mayor and Council questioned the capital expenditures request including the need for a new generator and a new ambulance versus upgrading the old ambulance.

8:30 **DPW**-(was rescheduled for later in the meeting)

9:00 **Fire Department**

Since the representatives from the DPW and Fire Department would be delayed, Mayor Lamatina suggested that the Council continue with regular business and resume the budget workshop when Mr. Solimando and Mr. Carlos arrived. There were no objections to his suggestion and the meeting continued.

b) Planning Board Attorney

Councilman Milone questioned the qualifications of Christopher Martin as the Planning Board Attorney. Mayor Lamatina answered that Mr. Martin had demonstrated a satisfactory command of the position from his observation and

further, that the Planning Board members had approved the appointment unanimously.

c) Amending Public Document Request Ordinance

Ms. Dray suggested revisiting the local property document request ordinance for conformance to the state statute, upgrading the fees and adding other language.

Ms. Dray offered to put some recommendations together for Mr. Boggia to review for his advice at a following meeting. All were in favor of Ms. Dray's suggestion.

d) Redevelopment Newsletter

Mr. Scarpa asked the Council to consider preparing a Redevelopment Newsletter in lieu of some new developments advising that there was money in the budget to do so. Mayor Lamatina and Councilwoman DeSalvo expressed their support of his suggestion commenting that it would serve to keep people informed.

e) Pay to Play Model Ordinance

Councilwoman DeSalvo explained that by adopting a local ordinance the Borough of Emerson could address some of the loopholes in the state statute that had concerned her. Councilman Hoffman suggested creating a committee to review the different model ordinances especially one called 'full transparency' and Councilman Heyer agreed adding that the borough attorney should make sure that it be as stringent as possible. Councilman Todd recommended a thirty day deadline for the committee to report their findings for a true consensus. Councilpersons Loffredo, DeSalvo and Hoffman all volunteered to be members on the committee.

f) Boats in Driveways

Councilwoman DeSalvo had been approached in regard to the matter of boats stored in driveways and questioned the consensus of previous discussions in regard to same. Councilman Heyer answered that local legislation had been considered because of concerns of line of sight and nuisance issues but there had been no consensus at the time to enact local legislation and the Council had tabled the matter. Councilman Hoffman recalled that the matter had been discussed at length and Council President Loffredo's recollection was that commercial vehicles had also been the focus at the time. Councilwoman DeSalvo surmised that if the matter became an issue again, the Council could then revisit the matter. No one had received any indication from the Code Enforcement Official that there had been any recent concerns that should be addressed by the Council in regard to the matter.

g) Reimbursement of former mayor's legal fees

Mayor Lamatina announced that item (g) would not be discussed by request of Councilman Hoffman.

h) Request for installation of an awning

A request had been made for the installation of an inscribed awning on a commercial property that would encroach upon the borough right-of way. The Code Enforcement Official had brought the request to the attention of the borough attorney for lack of any guiding local legislation in the Code Book. Mr. Boggia opined that he would be reluctant to advise the Council to grant the approval because it would be the first and may not be consistent with the Redevelopment. He added that if permission were granted the awning could remain there a very long time and might not be something the borough would want to establish. Mr. Boggia suggested that he consult with the town planner to determine if the request was appropriate before making any

decisions. The consensus among the members was to bring it up again at the next meeting after feedback from the planner.

i) **Library fundraising**

Councilman Todd announced that the Library Board of Trustees was considering utilizing a building fund to raise monies for a new building and hoped the Council would support their effort.

14. OLD BUSINESS

a) **Redevelopment-Amended RFP**

The Council reviewed the Request for Proposal document for re-issue. The Council considered the following amendments to document:

- Page 3, striking all of Item 1.2.2 Local Property Tax Incentives and leave in 1.2.1.
- Lower the application fee to \$200 and eliminating the per acre charge
- Accepting informal plans with less details
- New dates: Issue date; 2/6/07, Deadline for Written Questions: 3/1, Deadline for Receipt: 3/16/07, Respondent Interview: 3/20, Notice of Selected Qualified Respondent: 4/10/07

Motion to approve the amendments to the Redevelopment Request for Proposals was moved by Councilman Todd, seconded by Councilman Heyer. All were in favor and motion was carried.

b) **Draft-Reexaminations Report of the Master Plan**

Mr. Scarpa agreed to consult with the Borough Planner for more information in regard to the report of the Master Plan and the matter was tabled.

c) **Recreation Ordinance**

Mr. Hoffman explained that the local ordinance required changes to be in compliance with the state statute and the previous borough attorney had agreed with all of Councilman Hoffman's recommendations. The matter had been displaced by other priorities and Councilman Hoffman was now seeking the advice of Mr. Boggia to introduce the amending ordinance. Mr. Boggia agreed to review the proposed changes.

15. REPORTS

a) **Mayor and Council Reports**

Mayor Lamatina had met with the firm, Grubb and Ellis, to act as the borough's agent in search of a responsible developer for the Redevelopment. He explained that the redeveloper paid the agent's fees. Mayor Lamatina and the Borough Engineer (at no cost to the borough) would be attending a town meeting in Oradell in regard to the Kinderkamack Corridor Study.

Councilwoman DeSalvo reported that Phil Nisonoff, **Board of Education** Business Administrator and Assistant Superintendent, had received his doctorate in Education Leadership, Administration and Policy.

Councilman Hoffman reported that the **Recreation Commission** was still in the planning stages of the dugouts with the help of John DeThomasis for architectural renderings.

Councilman Todd gave the **Emerson Volunteer Ambulance** report and remarked upon the volunteers' dedication. He reminded the members that the dinner was Saturday, February 24th.

Council President Loffredo gave the **Police Activity Report**. He further reported that the 12 hour shift trial effective January 2005 was skewed for an accurate comparison tool due to the laying off of the one officer and he had asked the Chief to do a base comparative of the years of 2003, 2004 & 2005 for evaluation purposes. Council President Loffredo requested permission from the Chair to make some remarks about the Community Police Independent Accountant's report that had been in the Council's most recent packets and was given the floor by Mayor Lamatina.

Council President Loffredo explained that two borough trust funds, the Recreation Commission and Community Police, had been examined by the borough auditor in March 2006. Both were either funded partially or completely by donations.

The report findings did not reveal any major concerns; although, recommendations were made by the auditor to correct some procedural practices. Despite the minor procedural breaches of the first audit, a request was made for a more in-depth examination of the Community Police Trust Fund in May 2006 and that report was no more revealing or compelling than the previous one and came to essentially the same conclusions as the first report completed in March 2006. However, comments fueling the possibility of an impropriety rising to a level of a much greater magnitude; specifically, a remark made by the former mayor alluding that this was just the 'tip of the iceberg' may have initiated the federal response that followed and subsequently documented in the newspaper. Council President Loffredo queried those who had been on the Council at that time whether any of them had seen the second report completed in May 2006 anytime after May 2006. There was no affirmative response from any of the members. Council President Loffredo revealed that the first time he had seen the report was approximately three weeks prior when it was given to him by the borough auditor, Gary Higgins. What he found disconcerting about that was the fact that the report had sat out of sight for a long time when it could have resolved the questions surrounding the Police Department and absolutely absolved the Community Policing of any misappropriation of funds. He was told that the report was given to the former Mayor and Borough Counsel but apparently the report never reached the hands of anyone on the dais. He commented that that action was personally incomprehensible to him because it would have answered many questions. Council President Loffredo requested, with approval by the Mayor and Council, the report be made public. Mayor Lamatina conferred with the Borough Attorney who agreed, after a brief consultation with the Administrator, that the audit was a public document. Mr. Scarpa said the auditor's billing statement for the audit arrived shortly after the completion of the report in May but Mr. Scarpa did not certify payment of the voucher until December when the council received it in their packet in December. *(Clarification: The second Community Police Trust Account report dated May 23, 2006 was distributed by the Municipal Clerk to the Council upon receipt in January 2007).* Mr. Scarpa confirmed that, procedurally, audits were delivered directly to the Municipal Clerk for distribution to the governing body. Councilman Hoffman questioned the proper procedure of distributing an audit and asked for an explanation

as to why the second audit did not get into the hands of the entire council when it was addressed to 'The Honorable Mayor and Council'. Councilman Hoffman questioned the Borough Clerk directly if she had received it or had seen it. Mr. Scarpa responded that no one in the Clerk's office saw it and that was why the bill had not been paid. Mayor Lamatina asked if the bill had been paid this year and Mr. Scarpa answered that the bill was paid last December. Councilman Hoffman considered it a serious slight by the auditor to have provided the report only to the former mayor and not the entire governing body prompting Councilwoman DeSalvo to question whether, in fact, that had been the case. Council President Loffredo confirmed that he had asked Mr. Higgins the question at 1:30 p.m. that day: "Who was in receipt of the report when he had completed it?" Mr. Higgins had replied to him: "The former Borough Counsel and the former Mayor". Councilwoman DeSalvo wondered what the former mayor's reason was for not providing the report to the Borough Clerk for distribution. Mayor Lamatina directed the Borough Clerk to include Mr. Higgins' reply to Councilwoman DeSalvo's question on the next meeting agenda. Mr. Scarpa volunteered to ask Mr. Higgins that particular question the next day and forward his reply by email to the Council before the next council meeting. Councilwoman DeSalvo questioned, based on the findings of the report, if there were any procedural recommendations or were they just minimal? Council President Loffredo replied that the recommendations were minimal and Ms Burns, CFO/Treasurer, concurred adding that everything proved out exactly over all the years in question. Councilman Hoffman wondered aloud to a person who was not present what he had meant by the use of phrase: 'tip of the iceberg'. In his opinion, the phrase was meant to place a cloud of suspicion over the Police Department and that, in his opinion, was unconscionable.

Councilman Heyer gave the **Construction Office** Activity Report adding that the Construction Official had questioned the status of his request to hire a part time Property Maintenance person to assist him. After a brief discussion, Mayor Lamatina suggested that Mr. Scarpa would review the paperwork of the names of the candidates to see if they were still interested and then place the subject on the next meeting agenda.

The above concluded the reports of the Mayor and Council

Budget Workshop Continued **DPW**

Mr. Solimando, DPW Superintendent, reported that his greatest needs were in the area of equipment and personnel. He would continue to pursue the joint purchase of a sewer flusher with three or four other towns. Mr. Solimando quantified his capital equipment requests and made recommendations of runoff problems on local streets caused by sump pumps discharging on to road ways and other drainage issues due to lack of foresight of development.

He maintained that since 2002, he had been requesting two additional employees because of extra duties and mandatory state regulations and compliance procedures.

He felt three additional employees would be a home run. Two older pickups would be taken out of service if he could swap the newer pickup from the Construction Office.

Fire Department

Chief Tom Carlos and Ron Berg of the Emerson Volunteer Fire Department came before the council to discuss their operation and capital budgets. Mr. Berg referenced a 2004 study done by the State of Delaware quantifying numbers of volunteer Fire Department nationwide relative to saving tax dollars. Mr. Carlos explained equipment needs and upgrades and then quantified the need for an expansion of the fire house for the purpose of records storage to be possibly funded through grants after speaking with the Borough Administrator. Chief Carlos quantified the line item of \$4,000 for new pagers at \$600 each. He did not use the money appropriated last year earmarked for pagers because he was unaware that was what the money was for and purchased a thermal camera instead.

Mr. Scarpa questioned why, with the newer technology, the volunteer fire fighters still depended on the 24 blasts from the siren signal during the day generated by inquiries from the public. Mr. Carlos and Mr. Berg responded they still found it necessary out of concern for terrorists and considered it a dependable source of signaling when volunteers were not using or had programmed their pagers or cell phones on vibrate.

Recycling turn-out gear was discussed and Mr. Berg and Mr. Carlos remarked that the last time they had received an increase in the clothing allowance was twenty years ago. They suggested that the clothing allowance be included in the salary line item for annual percentage increases.

RECESS

At this time, a **motion** to recess for nine minutes was moved, seconded and carried.

Motion to reconvene was moved, seconded and carried.

a) Office of the Borough Administrator

Mr. Scarpa reported that:

- He had asked the engineer to prepare cost estimates for resurfacing Ackerman Ave. basketball courts, borough-wide drainage problems and road re-surfacing projects,
- He had received notice that the JIF would be requiring the municipality to participate in an Employment Liability Practices seminar in order to keep the deductible under \$150,000 and a letter would be forthcoming in regard to same from Mr. Grubb, of the JIF Insurance Fund.
- He had amended the Open Space grant application by moving the money from the field turf project to Sunset Park.
- He intended to meet with the auditor to plug in the numbers for a more definitive budget by the next meeting.
- The town newsletter would be mailed at the end of the week.

- That he was in the process of completing the revision and updating of the borough website for a new look. Councilwoman DeSalvo questioned who handled the website and Mr. Scarpa replied it was done a few years ago, periodically updated and administered by about fifty different people who had the ability to make changes. Councilman Hoffman strongly recommended discussing and creating rules for content on the borough website and Mr. Scarpa concurred responding that access would be limited.
- b) Office of the Municipal Clerk- Ms. Dray, Borough Clerk, suggested that the governing body authorize an auction for unclaimed and obsolete borough property. The Police Chief volunteered that the department would also like to auction off a used motorcycle.
Councilman Todd **moved** to authorize the Borough Clerk to advertise for a municipal auction of various vehicles, and unclaimed and miscellaneous obsolete property seconded by Councilwoman DeSalvo and unanimously carried.
- c) Borough Attorney had no report for open.

16. 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 Lamatina 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 Lamatina 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 chambers.

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

Gloria Wilson, 53 George Rd., supported the continuation of Mayor and Council salaries for their time and service commenting that their salaries were earned and well deserved.

Jeff Bischoff, 86 Park Ave., considered the Planning Board political piece mailed out five days before the election unethical and wondered if his opponents at the time had voted to approve the mailing. Councilwoman DeSalvo responded that she disagreed that the piece was political and had understood that there had been funds available. Councilman Todd could not recall if that particular Planning Board newsletter had been voted upon and Councilman Hoffman added that he had found no evidence of a vote in any Planning Board minutes. Councilman Todd stated that the writing of the newsletter had been a group effort. Councilman Hoffman claimed that the newsletter was full of misleading

information and pictures. Mr. Bischoff wanted to know who on the Planning Board authorized the newsletter to be printed and mailed five days before a heated contest at which he lost the race by thirty votes. No member of the governing body chose to reply to his question

Gary Schwinder, 99 Linden Ave., was appalled at the revelation by Council President Loffredo that the second Community Policing audit report revealed nothing more than the first audit and recalled his shock and humiliation when he became the subject of an FBI investigation for selling trinkets to the Emerson Police Department; and further, that a reporter from The Bergen Record called him the very next day for his comments. It disturbed him that no one ever admitted leaking his name and others to the Bergen Record. It was his hope, that after months and months of waiting and with the disclosure of the second audit establishing that he, the Police Chief, the CFO and other local business people were innocent that the newspaper, so quick to publish his name as subject of an FBI investigation, would be as prompt to publicly exonerate him. In his opinion, it was despicable that the former mayor and borough attorney had allegedly kept the report under lock and key and he believed that they should now, in turn, be investigated for lying and for instituting an investigation for which there was no basis. He found the cloud of doubt and question of his character and that of the others accused pathetic and demanded an explanation as to why the report was never revealed. He thanked Council President Loffredo for finally doing so but found it deplorable that no one knew of the report, or was informed of it, or if they did, had not revealed it before. Further, he was appalled no one claimed to be the informant to the FBI; neither the former Mayor nor anyone on the council serving then or now, yet the FBI happened to appear in Emerson to investigate him for what originally amounted to his speaking out publicly on principle his opinion of the importance of monitoring the posting of appropriate material on the borough website. At that same meeting he had been shocked and suffered public embarrassment when attacked by the former mayor of being a 'friend of the Police Department who did business with them' culminating with the FBI showing up at his office soon thereafter. He questioned the integrity of the former mayor who publicly denied that he had anything to do with instigating an FBI investigation. Councilman Hoffman commented that he had asked the Borough Administrator to send a communication to the FBI agent, Richard Tylenda, for the status of the investigation since the audit provided no evidence of criminal wrong doing. Mr. Scarpa replied that he had not done so since he had no authorization from the governing body. Councilman Hoffman recommended that the Council approve the authorization to once and for all dismiss the political smear by the former mayor over the Emerson Police Department. Councilman Hoffman also proposed that all the newspapers were ethically bound to report the abuse of power by the former mayor with the disclosure that no improprieties were found. Councilman Hoffman promised Mr. Schwinder that he would find out why the second Community Police Trust fund audit report had not been released to the whole governing body at the time that it was completed.

Mr. Fagan, 177 Colonial Road, questioned why the audit had been held since May 2006 and asked that the council contact the United States Attorney General's office because he was forced to spend \$7,500 in legal fees to appear before a grand jury to be questioned

in regard to what he considered was a 'political witch-hunt'. Mr. Fagan questioned, through the Chair, if Council members Milone, Todd and DeSalvo knew about the May 23rd, 2006 audit even before they received it. Councilwoman DeSalvo answered 'no', Councilman Todd replied 'that it looked like the first audit but did not recall seeing the second one' and Councilman Milone answered that he 'did not recall but would check his records'. Mr. Fagan wanted to know if the Council intended to file criminal charges against him stemming from an incident in the prior year or intended to withdraw the resolution. Mayor Lamatina responded that his question and the matter would be addressed in closed session because of its litigious nature along with Mr. Fagan's request to contact the US Attorney General's Office on his behalf of for false investigation by the former mayor.

Rosario Giaritta, 72 Hillside Ave. referenced the charges, accusations and rumors surrounding the Emerson Police Department and defied Councilman Milone and Todd to identify any illegal activity in the first report that prompted a vote to further investigate the Police Chief driving a deeper wedge in the community, wasting money on legal fees and ruining people's reputations. He opined that the Council had an obligation to make a strong statement to restore the Police Chief's credibility and implored them to get it done immediately to repair the reputation of Emerson.

Chief Michael Saudino, Emerson Police Department, commented that his stomach was again in knots rehashing the accusations that had tarnished the reputation of the Emerson Police Department and his by questioning his integrity and making it appear that he was some kind of petty thief. He stood by his good reputation against what he described were a pack of lies. Chief Saudino remarked that he would like to put the past behind him and thanked Council President Loffredo for describing what had occurred. However, he alleged that the insinuating remarks made by the former mayor and borough attorney were admissions of guilt that it was they who notified the US Attorney General's office because the US Attorney General would never share information or discuss details about investigations. He accused Councilman Todd as the person who took the Senior Citizens pasta dinner receipts and voucher from the borough hall that wound up in the hands of the US Attorney General yet he sat silent before the public. He revealed his doubts that no one on the Council knew of the second audit and suspected otherwise. Chief Saudino reinforced his commitment to move forward remarking that he believed the tumor had been removed from the borough and thanked the Mayor and Council for letting him make his comments.

Councilman Hoffman agreed with Chief Saudino that the borough needed to move forward but that it was also important the truth be told so that the same thing would never happen again to the residents of Emerson.

Mayor Lamatina agreed and remarked that this administration was an open administration and questions were encouraged.

Vincent Donato, 128 Vivian Ave. commented that, in his opinion, the borough auditor, Mr. Higgins, was a co-conspirator of the former mayor and borough attorney, William

Smith, in their mission to withhold vital information that would have cleared the name of the Police Chief and Emerson Police Department when the second audit was not distributed according to the proper procedure. He further suggested that one investigation be authorized by the council, spearheaded by the borough attorney, to put to rest where the report went when it was completed, and if the Borough Clerk or any council member had ever seen it. He added that the public deserved to know the truth and that the matter should not be swept under the rug.

Mayor Lamatina understood from the borough attorney that Trenton would be the proper authority to conduct an investigation for political purposes but Mr. Donato argued that process would take too long and the auditor should be held accountable for his alleged actions.

Mr. Donato continued with concerns about the widening of Kinderkamack Road from north of Linwood to Lincoln Blvd. Mayor Lamatina replied that he would be attending another town meeting in Oradell and the traffic data was in the hands of the County. Mr. Donato questioned the DEP status of vacated former gas station. Next, he referenced a statement printed in the Planning Board newsletter which said: "Property owners had submitted proposals". Councilman DeSalvo clarified that some property owners had submitted informal proposals to the Planning Board. Councilman Hoffman questioned the context of the statement given that the rest of the newsletter used the term 'RFP' in reference to 'proposals'.

Paul Eisenman, Cliffside Park, NJ, Bergen Grass Roots, spoke in support of the Pay to Play model ordinance.

Alex Adler, echoed the comments of Mr. Eisenman and offered to answer any questions that the council might have.

Council President Loffredo commented that the chaos Mr. Adler may have witnessed at this meeting that evening had nothing to do with political contributions and that the ethics of people on the dais were beyond reproach. He advised Mr. Adler to plead his case to the state because the money at the local level was irrelevant in terms of "buying" an appointment. Councilman Hoffman was concerned that there wasn't a cap on the spending of money for campaign purposes stacking the odds of only the wealthy getting elected.

Danielle DiPaola, 93 Union St., questioned Councilwoman DeSalvo as to who were the presenters of informal plans. Councilwoman DeSalvo remembered that the Tool Chest was one but could not exactly recall the names of the others. Ms. DiPaola suggested that another newsletter be mailed to the residents, since some may not read the newspaper, exonerating the individuals and the Police Chief and Police Department of corruption. Councilman Heyer agreed that it was regrettable that newspapers focused on the sensational side of a story but were not so quick to cover the matter when the smoke cleared. He, too, hoped to see that what happened here that evening would be printed in the newspaper exonerating all the individuals involved.

Jeff Bischoff, 86 Park Ave., remarked that KLD Properties had presented a viable plan but ended up in the Supreme Court in order to get a building permit which Mr. Bischoff alleged was discouraging to the other property owners besides the fee just to present an RFP. He questioned if the second audit was delivered to the borough May 23, 2006, and if so, why it was allegedly suppressed. Mr. Scarpa corrected Mr. Bischoff that the bill was received sometime after May; although, he could not pinpoint the actual date. Mr. Scarpa offered to get Mr. Bischoff the answer the next day.

For the record, Mayor Lamatina read a motion from the December 27, 2006 meeting minutes: ‘Motion to implement the non-fair and open alternate route for professional services’ was moved by Councilwoman Costantin, seconded by Councilman Milone and carried by a 4-1 roll call vote. The record showed that Councilman Heyer had abstained and Councilman Hoffman had voted ‘no’, and Councilpersons Costantin, DeSalvo, Milone and Todd voted in favor of the motion.

Tom Fagan, 177 Colonial Rd., agreed with Mr. Donato’s suggestion that the Council further investigate Mr. Higgins’ role in suppressing the second audit because he himself had subpoenaed Mr. Higgins in regard to a lawsuit but Mr. Higgins’ attorney never produced the audit in spite of the subpoena; nor was he ever deposed. It was Mr. Fagan’s opinion that the Council needed to call Mr. Higgins in at a minimum to find out what he knew, who he told and what happened to the second Community Trust Fund audit.

Seeing no more hands, Council President Loffredo **moved** to close the meetings for comments from the public, seconded by Councilman Heyer and carried unanimously.

Councilman Hoffman asked that the council authorize Mr. Scarpa to send a letter to Mr. Tylenda as to the progress or closure of the investigation. The Council tabled the request until after the closed session.

17. CONSENT AGENDA-Resolution No. 43-07

The Borough Clerk announced that no resolutions had been pulled or voted on separately. **Motion** to approve Resolution No. 43-07, Consent Agenda, was moved by Councilman Heyer, seconded by Council President Loffredo and carried by 6-0 roll call vote.

- Roll Call:**
- DeSalvo-yes**
- Hoffman-yes**
- Todd-yes**
- Loffredo-yes**
- Heyer-yes**
- Milone-yes**

- Ca44-07 Resolution accepting the Municipal Alliance Grant
- Ca46-07 LOSAP
- Ca47-07 Resolution approving mutual agreement with Oradell for a Cover-up and Assistance Program for better fire protection for both communities

Ca48-07 Transfer of Funds

18. CLOSED SESSION RESOLUTION No. 45-07

Motion to close for an executive session to discuss matters exempt from the public as duly noticed by Resolution No. 45-07 was moved by Councilwoman DeSalvo, seconded by Councilman Todd and carried unanimously
#07-2/6-3 Litigation-Saudino v. Borough
#07-2/6-4 Personnel- Police Department
#07-2/6-5 Collective Bargaining Agreement-DPW

19. RECONVENE

Motion to reconvene was moved, seconded and carried unanimously.

20. ACTIONS TAKEN AS A RESULT OF CLOSED SESSION DISCUSSION

DROPPING THE DISCIPLINARY CHARGES AGAINST THE POLICE CHIEF AND APPROVING SETTLEMENT AMOUNT

Mayor Lamatina explained that the following motion would be reduced to writing by a resolution.

Councilman Hoffman **moved** to drop charges against Chief Saudino and approve the \$140,000 settlement with the borough's obligation not to exceed \$70,000 seconded by Council President Loffredo and carried by a 3-1.

Roll Call: Council members

DeSalvo-**no**
Hoffman-**yes**
Todd-**abstain**
Loffredo-**yes**
Heyer-**yes**
Milone-**abstain**

Councilman Heyer remarked that the settlement was strongly recommended by counsel and the risk insurers and he did so, in the end, to save the taxpayer's money. However, he warned that his vote should not be construed as a concession to the Police Department or the Chief or to the appearance that they were giving anything away. He added that the decision had been a difficult one but predictable based on the actions of some members of the council last year that he had warned and voted against. He had predicted a lawsuit would follow and no one had listened at that time. Now he could say: "I told you so". He wished to move on and put that matter behind them.

Councilman Hoffman echoed the comments of Councilman Heyer and agreed that he voted the way that he did this evening in the best interests of the citizens of Emerson adding that if the rest of the Council had heeded the warnings of he and his fellow

Council persons Heyer and Camporeale last year; the lawsuit would never had happened. He also expressed his wishes to put the matter to rest.

Councilwoman DeSalvo commented that; although she was in favor of settling the lawsuit and moving on, she could not come to grips with the dollar figure, and in her opinion, the award was too excessive and was disappointed that the JIF did not come to more a reasonable settlement and did not provide attorney fee documentation.

Mr. Boggia explained how the settlement number was determined after recommendations made by the borough's risk insurance managers and attorneys from the JIF/MEL who were experienced analysts of cases such as this and could expertly assess the risk and exposure the borough would be facing if the lawsuit would have continued. It was by their direction that the case be settled and the terms were outlined in a letter by the JIF attorney on the case, Mr. John Robertelli, previously agreed to by the plaintiff's attorney, and subsequently, subject to the Council's approval that evening. It was also determined that based on the totality of the situation that it would be in the best interest of the community if the borough dismissed the disciplinary charges filed against the Police Chief which prompted the entire litigation to begin with. Mr. Boggia stated that he shared everyone's feelings about the monetary amounts involved but the amount was not completely in their control because the claims analyst indicated to the borough that the responsibility could rest completely on the borough shoulders exposing the borough to potentially greater damages should the borough not heed their recommendations to settle. It was his recommendation, along with the representatives of JIF/MEL Insurance Fund, to resolve the matter and felt it was important that everyone understood why the borough settled.

Councilman Todd explained that it was in his best interest to abstain since he was named individually in the lawsuit and for the appearance of propriety. He thought the settlement number was very large; however, the borough was left with no choice.

Mayor Lamatina remarked that the time and money wasted on legal fees for personal vendettas was mind boggling but considered this the first step in putting the past behind them and was looking forward to the redevelopment and was committed to acting in the best interest of the borough from this point forward.

FBI INVESTIGATION

Councilman Hoffman requested approval by the Council to direct Mr. Scarpa to write a letter to Mr. Tylenda to receive closure or a response in regard to the investigation.

Motion to authorize the Borough Administrator to contact the FBI representative to determine whether or not closure and/or status of that investigation was made was moved by Councilman Hoffman, seconded by Council President Loffredo and carried by a 6-0 roll call vote.

Roll Call: Council members
DeSalvo-yes

APPROVED 6/19/07

Hoffman-yes

Todd-yes

Loffredo-yes

Heyer-yes

Milone-yes

21. ADJOURNMENT

With no more business to address, Council President Loffredo moved to adjourn, seconded by Councilman Heyer at 12:14 a. m. on February 7, 2007 and carried with no objections.

Carol Dray, RMC/CMC

May 31, 2007