



MAYOR AND COUNCIL MINUTES

Wednesday, December 27, 2006

8:00 P.M.

BOROUGH HALL COUNCIL CHAMBERS

Municipal Place

Emerson, NJ 07630

This meeting was called to order at 8:28 pm. Councilwoman Carole Costantin led the Salute to the Flag followed by a moment of silence.

Mayor Setteducati read the Open Public Meetings Statement announcing that the meeting was called pursuant to the provisions of the Open Public Meetings Law. This meeting of **December 27, 2006** was a rescheduled meeting of a previously advertised meeting of the Mayor and Council duly faxed and advertised to the Bergen Record and Ridgewood News on November 22, 2006 as the required notices under the Statute. In addition, a copy of this notice is and has been available to the public and is on file in the Office of the Municipal Clerk of the Borough Hall

ROLL CALL

Councilman Frank Milone-Present
Councilwoman Carole Costantin-Present
Councilwoman Marcia DeSalvo - Present
Councilman Christopher Heyer-Present
Council President Brian Todd-Present
Councilman Kenneth Hoffman-Present
Mayor Steven Setteducati-Present

Also present were Borough Clerk, Carol Dray and William Smith, Borough Attorney.

APPROVAL OF MINUTES

None

7. CORRESPONDENCE

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

#06-118 Resolution dated 12/13/06, re: in Support of Historic Properties Revitalization Act (A896/S2030)

#06-119 Letter dated 12/18/06; re: 2007 Smart Growth Awards, Senator Gerald Cardinale

8. PROCLAMATIONS AND PRESENTATIONS

Mayor Setteducati announced that Robert Belli, Chairman of the Environmental Commission would explain and introduce the winners of the Environmental Commission Essay Awards:

- a) Joseph Calabrese-1st Place
- b) Janine Bednarz-2nd Place
- c) Masaki McLellan-2nd Place

Masaki McLellan, Janine Bednarz and Joseph Calabrese read their essays to the audience.

9. APPOINTMENT AND PERSONNEL CHANGES

a) RESIGNATION

☞ **Motion** by Councilwoman Costantin to accept the resignation of Robert Adams as a Class II member of the Planning Board, seconded by Councilman Milone and carried unanimously.

☞ **Motion** by Councilman Milone to accept the resignation of Robert Adams as an Alternate III member of the Zoning Board of Adjustment, seconded by Councilwoman Costantin and carried unanimously.

☞ **Motion** by Councilman Heyer to accept the resignation of Janice Parisi as a regular member of the Recreation Commission, seconded by Councilwoman DeSalvo and carried unanimously.

b) APPOINTMENTS

Police Dispatcher

☞ **Motion** by Councilwoman Costantin to appoint Mark Bensen as a Permanent full time Police Dispatcher by recommendation of the Chief of Police for satisfactorily completing his probationary period seconded by Council President Todd and carried unanimously.

Environmental Commission

Mayor Setteducati requested a motion to appoint **Robert Cohen as a regular member of the Environmental Commission for the unexpired term ending 12/08**, so moved by Councilman Milone and seconded by Councilwoman Costantin. Councilman Hoffman interjected that an appointment to the Environmental Commission was by mayor only pursuant to the state statutes despite that the local ordinance said otherwise. This was a correction brought forth previously. Mr. Smith concurred with Councilman Hoffman that the appointment was by mayor only along with the appointment of Chairman of that particular commission. Mayor Setteducati chose to request a motion citing past precedent since it had always been done that way and continued the formal action by requesting a roll call vote.

ROLL CALL

Councilman Frank Milone- Yes

Councilwoman Carole Costantin- Yes

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Councilwoman Marcia DeSalvo - Yes
Councilman Christopher Heyer- Yes
Council President Brian Todd- Yes
Councilman Kenneth Hoffman- Abstain

Mayor Setteducati remarked that he would have voted in favor of Mr. Cohen's appointment and recalled that he was following past protocol adding that the only time he believed that he had made a unilateral appointment to any board or commission was the appointment of Chairperson of the Environmetnal Commission, Joan Martin, in 2003.

Councilwoman DeSalvo questioned whether John DeThomasis could be reappointed to the Planning Board by Mayor Setteducati at this time even though his term expired at the end of the current year. Mayor Setteducati replied that he could not make the reappointment even if he wanted to because of Mr. DeThomasis' expiration date. He further explained that the appointment for that term would begin January 1, and therefore; was an appointment that the new mayor would make. The Borough Attorney concurred with those statements made by the mayor.

PLANNING BOARD

Mayor Setteducati requested a motion to appoint **Robert Adams as a Class IV member of the Planning Board for the unexpired term ending 12/08 effective immediately** left vacant by Councilwoman's seat on the council so moved by Councilwoman DeSalvo and seconded by Councilwoman Costantin.

Councilman Hoffman interjected that again the appointment was the mayor's again to make without council confirmation. Mayor Setteducati agreed saying that perhaps it was; however, he believed that Mayor Menditto had done it with a vote of the governing body and he had followed his example by always appointing the confirmation of the governing body. He would opine his personal wishes after the vote of the governing body was taken.

ROLL CALL

Councilman Frank Milone- Yes
Councilwoman Carole Costantin- Yes
Councilwoman Marcia DeSalvo - Yes
Councilman Christopher Heyer- Yes
Council President Brian Todd- Yes
Councilman Kenneth Hoffman- Abstain

Mayor Setteducati opined that if it was up to him to appoint Robert Adams he would and was in favor of this appointment by virtue of Mr. Adams' exemplary performance on the Planning Board. Mayor Setteducati added that he was appointing Robert Adams to the Planning Board but in the four years that he had been mayor he had always asked for council confirmation.

In order to save Councilman Hoffman the trouble, Councilman Heyer questioned the correct procedure of the rest of the appointments to follow. Mayor Setteducati replied that he would make the appointments and ask for council confirmation because he had never varied from making appointments in that manner and would continue to do so being that it

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was his last meeting. Councilman Hoffman affirmed that they were the mayor's appointments to make alone by state statute.

Mayor Setteducati appointed **Robert Belli as the Class II member of the Planning Board** but requested a motion for council confirmation so moved by Councilwoman Costantin, seconded by Council President Todd and confirmed by a 5-0 vote.

ROLL CALL

Councilman Frank Milone- Yes

Councilwoman Carole Costantin- Yes

Councilwoman Marcia DeSalvo – Councilwoman DeSalvo questioned the statutory criteria of appointing a member of the Environmental Commission to the Planning Board and Mayor Setteducati explained that criteria adding that it had to be done by state statute as Councilman Hoffman had previously brought to their attention.

Councilman Christopher Heyer- Yes

Council President Brian Todd- Yes

Councilman Kenneth Hoffman- Abstain

Mayor Setteducati stated that Mr. Belli would have been his designee and, in fact, he did just appoint him.

Mayor Setteducati requested a motion to confirm the **appointment of Barry Howard as the Alternate II member of the Planning Board for the term ending 12/08** so moved by Council President Todd, seconded by Councilwoman Costantin and confirmed by a 5-0 roll call vote.

ROLL CALL

Councilman Frank Milone- Yes

Councilwoman Carole Costantin- Yes

Councilwoman Marcia DeSalvo - Yes

Councilman Christopher Heyer- Yes

Council President Brian Todd- Yes

Councilman Kenneth Hoffman- Abstain

Mayor Setteducati stated that he appointed Mr. Howard and that he felt even better about the appointment with the council's confirmation.

Mayor Setteducati requested a motion to appoint **Robert Callagee as the Alternate I member of the Planning Board for the expired term ending 12/07**. Councilman Hoffman mentioned that Robert Callagee was appointed to the Environmental Commission in 2004 and did not attend a single meeting that year. He further quoted a letter from the former Chairperson of the Environmental Commission during that time stating that Mr. Callagee never informed the commission when he would not be attending meetings even though he had received ample notice of those meetings. Councilman Hoffman added that he hoped that Mr. Callagee would show more devotion to the Planning Board than he did the Environmental Commission. Mayor Setteducati responded that he had spoken to Mr. Callagee with those concerns but Mr. Callagee had expressed a strong desire to be appointed

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to the Planning Board. Mayor Setteducati thanked Councilman Hoffman stating that his comments were duly noted.

Again, Mayor Setteducati asked for a motion to appoint **Robert Callagee as Alternate I member of the Planning Board for the term ending 12/07** moved by Councilwoman DeSalvo seconded by Councilman Milone and carried on a 5-0 vote.

ROLL CALL

Councilman Frank Milone- Yes
Councilwoman Carole Costantin- Yes
Councilwoman Marcia DeSalvo - Yes
Councilman Christopher Heyer- Yes
Council President Brian Todd- Yes
Councilman Kenneth Hoffman- Abstain

Mayor Setteducati stated that if the appointment was his to make he agreed with the appointment; and hereby did make the appointment of Robert Callagee with council confirmation as Mayor Menditto did it.

RECREATION COMMISSION

Motion by Councilman Heyer to **appoint Beverley Doughty as a regular member of the Recreation Committee for the unexpired term ending 12/09**, seconded by Councilwoman Costantin carried 5-1.

ROLL CALL

Councilman Frank Milone- Yes
Councilwoman Carole Costantin- Yes
Councilwoman Marcia DeSalvo - Yes
Councilman Christopher Heyer- Yes
Council President Brian Todd- Yes
Councilman Kenneth Hoffman- No

Again, Councilman Hoffman corrected Mayor Setteducati stating that the appointment above was also a mayoral appointment; however, the local borough ordinance did not reflect the statute.

ZONING BOARD

Motion by Councilwoman Costantin to appoint **John Zielinski as the Alternate IV member to the Zoning Board for the unexpired term ending 12/07**, was seconded by Councilwoman DeSalvo and carried by a 5-1 vote.

ROLL CALL

Councilman Frank Milone- Yes
Councilwoman Carole Costantin- Yes
Councilwoman Marcia DeSalvo - Yes
Councilman Christopher Heyer- Yes
Council President Brian Todd- Yes
Councilman Kenneth Hoffman- No

Mayor Setteducati again thanked his appointee John Zielinski for stepping up and volunteering for the Borough. Mayor Setteducati congratulated and thanked Beverley Doughty for stepping up for three more years on the Environmental Commission but was corrected by various Council members noting that Ms. Doughty was appointed to the Recreation Commission, not the Environmental Commission. Mayor Setteducati then thanked Robert Callagee, Barry Howard, Robert Belli and Robert Adams for also stepping up to the plate and volunteering their time and efforts as non compensated service to the Community.

10. ORDINANCES-FIRST READING

None

11. ORDINANCES-SECOND READING AND PUBLIC HEARING

1316-06 Amending Annual Salary Ordinance Eliminating Governing Body Salaries

☞ Council President Todd **moved** to open the meeting for public comment on this ordinance only, seconded by Councilwoman DeSalvo and carried.

☞ Seeing no hands, Councilman Heyer **moved** to close the meeting for public comment, seconded by Council President Todd and carried.

☞ **Motion** to adopt Ordinance #1316-06 was **moved** by Council President Todd, seconded by Councilwoman DeSalvo and carried by roll call vote.

RC: Council members:

ROLL CALL

- Councilman Frank Milone- Yes
- Councilwoman Carole Costantin- Abstain
- Councilwoman Marcia DeSalvo - Yes
- Councilman Christopher Heyer- No
- Council President Brian Todd- Yes
- Councilman Kenneth Hoffman- No

Mayor Setteducati announced that Ordinance No. 1316-06 was duly adopted by a vote of 3-2 with one abstention.

1317-06 Amending the Salary Ordinance No. 1307-06

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

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

☞ **Motion** to adopt Ordinance #1317-06 was **moved** by Councilman Hoffman, seconded by Councilwoman DeSalvo and carried by roll call vote.

RC: Council members:

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ROLL CALL

Councilman Frank Milone- Yes
Councilwoman Carole Costantin- Yes
Councilwoman Marcia DeSalvo - Yes
Councilman Christopher Heyer- Yes
Council President Brian Todd- Yes
Councilman Kenneth Hoffman- Yes

Mayor Setteducati announced that Ordinance No. 1317-06 was duly adopted by a vote of 6-0.

Mayor Setteducati requested the suspension of the Mayor and Council By-Laws as far as the 48-hour notice was concerned so that he could appoint Kathy Calabrese to the Recreation Commission as Alternate II member. He understood that Mr. Belloise of the Recreation Commission endorsed the appointment and deferred to Mr. Smith for the proper terminology to waive the bylaws with a vote from the Borough Council. Councilman Hoffman questioned the purpose served suspending the by-laws and wondered why the appointment had to be done that evening. Mayor Setteducati responded that he wanted to get it done and reminded Councilman Hoffman that he was a constant violator of the by-laws with his behavior by frequently speaking out of turn. Councilwoman DeSalvo questioned if a vote was taken in the past to suspend the bylaws. Mayor Setteducati could not readily recall but stated that the Mayor and Council violated the by-laws many times by ancillary conversations or by adding an item to the agenda at the meeting itself.

Motion to waive 48-hour notice for items on the agenda was moved by Councilman Milone, seconded by Councilwoman Costantin and carried with one objection.

Motion to appoint Kathy Calabrese as the Alternate II member of the Recreation Commission for the unexpired term ending 12/07 effective immediately was moved by Councilwoman DeSalvo; seconded by Councilwoman Costantin and carried by a 5-0 vote.

ROLL CALL

Councilman Frank Milone- Yes
Councilwoman Carole Costantin- Yes
Councilwoman Marcia DeSalvo - Yes
Councilman Christopher Heyer- Yes
Council President Brian Todd- Yes
Councilman Kenneth Hoffman- Abstain

Mayor Setteducati administered the oath of office to all those present.

12. OLD BUSINESS

Discussions:

a) Pay to Play

Councilman Hoffman explained that this had been previously discussed and the purpose of the discussion was to determine what form was to be used. Mayor Setteducati expressed concern over the fact that the proposed new engineering firm had given substantial

contributions to various political candidates and took exception to the appointment because of it. Mayor Setteducati did not question the firm's qualifications but was puzzled that Councilman Hoffman did not have an issue with it. Councilman Hoffman and Mayor Setteducati debated quid pro quo and Councilwoman DeSalvo was concerned with the appearance of the loophole of the law and did not consider it fair. Councilman Hoffman countered that it was the law.

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 roll call vote of 4-1 with one abstention.

ROLL CALL

Councilman Frank Milone- Yes
Councilwoman Carole Costantin- Yes
Councilwoman Marcia DeSalvo - Yes
Councilman Christopher Heyer- Abstain
Council President Brian Todd- Yes
Councilman Kenneth Hoffman- No

13. NEW BUSINESS

None

15. REPORTS

Mayor and Council Reports

Councilman Milone had no report.

Councilwoman Costantin had no report; instead, she thanked her fellow council members and the voters of Emerson for their support adding that it had been an honor to serve the residents of Emerson.

Councilwoman DeSalvo had no report.

Councilman Heyer had no report but thanked the borough employees and all the volunteers that had offered their support for both he and his family in their time of need.

Council President Todd gave the Police Department Activity Report for the month of November 2006. He also wanted to express his thanks for outgoing Mayor Setteducati and Councilwoman Costantin. Council President Todd mentioned that there was a fire at the Emerson Convalescent Home on December 25, 2006 and Police Officers Duardo and Kalyoussef required emergency medical attention. Officer Kalyoussef noted that it appeared that the nursing home staff required training in emergency response. Chief Saudino, who was in the audience, informed the Council that a discussion would be held to assess what training needed to be implemented by the Nursing Home staff.

Councilman Hoffman reported that a copper beech tree would be planted in honor of Muriel Wassmann at Centennial Park during the Annual Arbor Day Ceremony decided at the last Shade Tree Commission. Councilman Hoffman informed the Council that PSE & G would be pruning trees near power lines throughout the town.

Mayor's Report Mayor Setteducati stated that he continued to receive calls in regard to the redevelopment from various people but deferred the calls to either the borough hall

or the new Mayor. Mayor Setteducati announced that he had made himself available to the new Mayor should he need his assistance. Mayor Setteducati expressed his thoughts about his term of office in Emerson.

Office of the Borough Administrator

Mr. Scarpa was not in attendance.

- a) Office of the Municipal Clerk-The Municipal Clerk had nothing to report.

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

Motion to open to the public for comments was moved by Councilman Heyer, seconded by Council President Todd and carried unanimously.

Tom DeScisciolo, 64 Dyer Avenue, objected to the Mayor Setteducati's numerous appointments to the various boards that evening with a new administration coming into office. Mr. DeScisciolo felt that Mayor Setteducati usurped his authority by waiting until his last Council meeting to make these appointments adding that, in his opinion, the new Mayor should be allowed to make these appointments.

Toni Plantamura, Dairy Queen, was very concerned in regard to traffic in front of her store and wondered who would be responsible for erecting a barrier in front of the store. Mr. Scarpa was asked to investigate the purchase and erection of a barrier or guardrail. Ms. Plantamura also complained that no prior notice was given for closures on Kinderkamack Road which had negatively impacted her business. Mayor Setteducati suggested that there should be better communication to avoid any problems in the future.

Robert Belli, 57 Longview Avenue clarified the areas where the utility company tree trimming will be occurring.

☞ Seeing no other hands, **motion** to close the meeting for comments from the public was moved by Councilwoman Costantin, seconded by Councilwoman DeSalvo and carried unanimously.

17. CONSENT AGENDA-Resolution No. 226-06

☛ **Motion** to approve Resolution No. 226-06, Consent Agenda, was moved by Council President Todd, seconded by Councilman Milone and carried by roll call vote.

RC: Council members

Milone-yes
Costantin-yes
DeSalvo-yes
Heyer-yes
Todd-yes
Hoffman-yes

Ca228-06 Resolution authorizing participation in the Bergen County First Responder Identification Card Program

Ca229-06 Bill List

Ca230-06 Transfers within the 2006 Budget

Ca231-06 Resolution Authorizing the Cancellation of 2006 Current Fund Budget Appropriation

Ca232-06 Appoint Mark Bensen as a full time Police Dispatcher

Ca233-06 Award Bid for Emergency Generator to Cummins Metropower Inc.

Ca234-06 Authorizing Safe Routes to Schools Program Grant Application

Ca235-06 Amending Resolution No, 217-06 re: Redeeming outstanding certificate #2004-2 on Block 603, Lot 4

Ca236-06 Authorize refund of Tax overpayment on Block 501.06, Lot 5

18. CLOSED SESSION RESOLUTION No. 227-06

Motion to close for an executive session to discuss matters exempt from the public as duly noticed by Resolution No. 227-06 was moved by Councilwoman DeSalvo, seconded by Councilman Hoffman and carried unanimously.

#06-12/27-50 Personnel-Crossing Guard

19. RECONVENE

Motion to reconvene to the open meeting was moved by Councilwoman Costantin, seconded by Councilman Hoffman and carried unanimously.

20. ACTIONS TAKEN AS A RESULT OF CLOSED SESSION DISCUSSION

None

21. ADJOURNMENT

ADJOURNMENT

With no more business to discuss, **motion** to adjourn was moved by Councilman Hoffman, seconded by Councilman Heyer and carried unanimously at 10:40 p.m.

Approved 02/06/07

Carol Dray, RMC

January 24, 2007