



MINUTES  
BOROUGH OF EMERSON  
MAYOR AND COUNCIL  
MAY 18, 2010  
7:30 P.M.  
Borough Hall-Council Chambers  
Emerson, NJ 07630



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**Call to Order**

Mayor Lamatina called the meeting to order at 7:35 pm. Mr. Bill Bierman 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 May 18, 2010 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 Hoffman – Present  
Council President Lazar- Present  
Councilman Rivers – Present  
Councilman Shaw – Present

Also present were the Borough Clerk Carol Dray and Borough Attorney Phil Boggia. Business Administrator Joseph Scarpa was not in attendance as he was on vacation.

I. PROCLAMATIONS & CITATIONS - None

II. APPOINTMENTS/RESIGNATIONS

- Library Board - Appointment of Ms. Sally Leara as Library Board trustee to fill unexpired term ending December 31, 2013.
- **Motion** to appoint Sally Leara as Library board Trustee to fill the unexpired term ending December 31, 2013 was **moved** by Councilman Shaw; **seconded** by Councilman Rivers and approved unanimously.
- Professional Services – Borough Police & Fire Physician – Ms. Dray announced that this item was being postponed to the next meeting.

### III. CORRESPONDENCE

Mayor Lamatina stated that all correspondence listed below was on file in the Municipal Clerk's Office for inspection or reproduction.

- Letter dated April 12, 2010 from Woodcliff Lake Borough Clerk Lori Sciara; Re: Woodcliff Lake Resolution #RO-51
- Letter dated April 13, 2010 from The Griffin Family; Re: Gratitude to the Department of Public Works for their efforts during and after the storm
- Letter dated April 12, 2010 from John Rosenow, Arbor Day Foundation; Re: Emerson named Tree City USA for 2009

### IV. ORDINANCES –INTRODUCTION

#### **FIRST READING:**

Mayor Lamatina announced that the following ordinance would be further considered at a Public Hearing to be held on June 1st, 2010 at 7:30 p.m. in the Council Chambers of the Borough Hall, Municipal Place, Emerson, N.J. and published in the May 21st, 2010 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.

#### **1407-10 AN ORDINANCE TO AMEND ORDINANCE NO. 1323-10 OF THE BOROUGH OF EMERSON, COUNTY OF BERGEN AND STATE OF NEW JERSEY AMENDING AND SUPPLEMENTING CHAPTER 61, PARKS, PLAYGROUNDS AND RECREATION, DEPARTMENT OF THE CODE OF THE BOROUGH OF EMERSON (FEES)**

☞ **Motion** to introduce Ordinance #1407-10 on first reading was **moved** by Councilman Rivers, **seconded** by Councilman Bair and carried by roll call vote:

**RC: Council members:**

**Browne-Yes**

**Rivers-Yes**

**Bair-Yes**

**Lazar-Yes**

**Hoffman-Yes**

**Shaw-Yes**

### V. UNFINISHED BUSINESS:

- Fire Department Ordinances – Councilman Hoffman explained that this was a continuing discussion on changes that he recommended regarding changes to Chapter 35 of the Borough Code entitled 'Fire Department'. He began with 35-10A, the supplemental firefighter membership. He said that this was added to the Fire Department membership a couple years ago and was to be consistent with a bylaw change about individuals that do not live in town but worked in the town, allowing them to be eligible to respond to fires. Another matter was the annual inspection which he did not think there were any

concerns about. This change would give the department more flexibility about scheduling the inspection.

Councilman Hoffman did outline Chapter 35-15 and said that there were some concerns here. It related to charges against members – hearing; his recommendation was to make changes so that the Fire Commissioner would no longer do investigations or make recommendations. He felt that this gave too much authority to one member of the Council. He recommended that it be done by the Borough Administrator.

He outlined other changes including allowing suspended individuals to reapply. He felt that since the Mayor and Council would do the original suspension, it should return to them if there was an application for reinstatement. He did add though, that the application should also be submitted to the Board of Fire Officers who would provide a recommendation to the Mayor and Council. This recommendation would not be binding.

Councilman Hoffman noted that mandatory training would have an additional sentence indicating that the Mayor and Council would have the authority to suspend any member who failed to attend any such training. He said that those programs were required by the state and the town could be fined.

He also said that he and Mayor Lamatina had met with members of the Board of Fire Officers and discussed a change regarding a requirement that members attend 50% of fire calls and alarms. The Board of Fire Officers wanted to reduce that to 30%. The Mayor clarified that the percentage pertained to more than fire calls such as cleaning the fire house. He wanted to be careful not to increase the obligation. Council President Lazar explained that the percentage applied to answering fires, going to drills, cleanups, meetings, etc. He added that it made it more equitable for people who worked out of town. Councilman Hoffman and Council President Lazar said that there was also a need to clean up the ordinance. Councilman Hoffman requested that the department take care of it themselves.

Council President Lazar noted that it was traditional in the Fire Department that bylaw changes be done there. After being voted on and approved by the membership, it has been passed on to the Governing Body for adoption into the Borough code. He added that it had been that way for over 30 years and that this would set a precedent where the Mayor and Council would be circumventing the Fire Department bylaws. However he did add that it was difficult to get participation from some firemen to make their averages and have been forced to do this. He said that there were two things to weigh – setting a precedent of circumventing the bylaws and doing what is best for the Fire Department.

Councilman Hoffman noted that there was a precedent for the Ambulance Corps where the Governing Body had to go in and pass an ordinance that superseded some issues in the bylaws. Mr. Boggia said that ordinances were the jurisdiction of the Governing Body and if they needed to be amended to function properly, then that was what needed to be done. Council President Lazar said that there could be a legal issue due to the fact that there was already a system in place for amending the bylaws. Councilman Hoffman pointed out that the system was for amending the bylaws, not for ordinances. Councilman Lazar said that he felt that it was a necessity for this problem to be addressed through ordinance. Mayor Lamatina noted that under the current bylaws a larger percentage of firemen are not eligible and are below 50%; this would make more people eligible to stay in the department. He said that he felt it was necessary and it would be helping members.

Councilman Rivers asked if they were doing this because they were going to start enforcing these guidelines and wanted to know what was changing. Councilman Hoffman explained that there was an intention to enforce it and felt that bringing the requirements down to 30% was fairer and more practical to enforce. He added that some individual's percentages were extremely low, but many between the 30% and 50% area and that this had gotten worse over the last few years. Mayor Lamatina said that it should be enforced by the fire department officers first. Councilman Hoffman stated that it was implied in the bylaws in the same way that any discipline did not go to the Governing Body unless it dealt with suspension or expulsion. Council members also discussed giving sufficient notice to those that fall below the minimum percentage and morale issues within the Fire Department. Councilman Shaw questioned how the percentages were arrived at and that the quota be ensured as not directed at specific individuals. Councilman Hoffman opined that if people were forced to comply more, there might be an increase response due to the improved morale and new members joining. He opined that it might reduce costs because of a reduced need for required turnout gear. Councilman Lazar said that there had been a lot of problems with morale in the fire department in the last few years and an abuse of power which led to polarization. He said that they were finally past that and they now wanted to set things right. He believed that this was a well intentioned change in the Borough ordinance.

Mayor Lamatina asked that Councilman Hoffman add a sentence in Chapter 35-15A to note that the Borough Administrator may rescind the charge with the consent of the Fire Officers and the Mayor and Council. He said that this particular chain of events actually happened this year.

Councilman Hoffman said that this ordinance would be prepared and circulated for consideration at the next meeting.

- Broadway and Spruce Avenue Appraisal – Mayor Lamatina stated the appraisal was received for a borough owned lot, a portion of Broadway located on the west side of Spruce Street between Block 509 and 515 for \$72,000, and that the next step was to formally advertise this lot for sale. Councilman Lazar commented that if someone purchased the lot, the town could not stop them from improving it. Mr. Boggia advised that a buildable lot is worth a lot more money than \$72,000. Councilman Shaw asked how the appraiser came up with the value in a 100' x100' zone for a 60' x 100' lot. Councilman Rivers questioned who has shown interest in the lot and Mayor Lamatina responded that there had been interest from someone looking at the neighboring property to combine it and build on it. He noted that it would require a variance.

Mr. Boggia counseled the Governing Body that if the lot was sold and there was no other land to make it conforming, it would theoretically be a buildable lot even if it was undersized emphasizing that the borough could not sell a lot and then zone it into utility. He stressed that they were creating a lot and; therefore, a value as a buildable lot which would most certainly would have a potential value greater than \$72,000. Mr. Boggia summarized the rule that if the borough sold a lot, the buyer could not be denied use. Mayor Lamatina agreed, noting that there were other 50' x 100' lots in town. Councilman Bair suggested not selling the lot and keeping it as Borough property since you could not sell a lot to someone, have them pay taxes and then tell them they could not do anything with it. Mr. Boggia added that if someone was to combine it with the adjacent lot, it could be worth \$170,000 to \$200,000. The Council concurred with what had been brought forth; that if the borough sold this lot, someone would build on it. Councilman Rivers said he understood from a previous meeting that this lot was to be appraised as a buildable lot. Council President Lazar said that they would have to clarify that.

Mayor Lamatina asked if the property could be advertised without a price. Mr. Boggia suggested making a minimum price and quickly determining the value of a buildable lot. Councilman Shaw suggested tabling the discussion to review the appraisal to see what the standard and criteria were. He emphasized that the appraisal had to be for a buildable lot. Council President Lazar said that the Borough should not be giving anything away; the property should be sold for fair market value in the best interests of Emerson.

## VI. NEW BUSINESS

- Tax Sale Certificate Redemption – Block 325, Lot 9 – Mayor Lamatina said they had received an email from CFO Catherine Henderson regarding a tax sale certificate from 1972 in the amount of \$43.94. He explained that the sale of the property was imminent and it needed to be determined whether to cancel the lien or ask for payment totaling \$200.00, which included \$150.00 in accumulated interest. The Mayor said that the only record to check whether a lien had been cancelled was at the County and Ms. Dray said that it was not there. The Council consensus was that the lien had to be paid.

## VII. REPORTS

- Mayor and Council

Councilman Browne said that Creative Outdoor Advertising, the company that has placed recycling bins throughout town, would be placing four additional bins in Emerson. He also discussed placing a bus shelter by Seneca Avenue on Kinderkamack Road, but noted that they would need to contact New Jersey Transit. Mayor Lamatina suggested that Councilman Browne contact John Jahr and coordinate this NJT.

Councilman Rivers gave the **Ambulance Corps** report for the month of April and said that they were planning an Open House on Sunday, June 27<sup>th</sup>. They were requesting approval to block off their parking lot for the event. The Council gave consensus to allow the use of the lot for this event. He also mentioned that they had changed their installation dinner to an installation brunch to reduce the cost to less than half. It would take place at the Bacari Grill on January 11<sup>th</sup>.

Councilman Bair said that the Villano Middle School concert was tomorrow at 7 p.m. and they were planning a circus in June.

Mayor Lamatina reported on the **Library Board** meeting last Thursday where two resolutions were passed – one to approve an ambitious and interesting lighting plan which would cost a lot more than PSE&G's proposal. The other resolution was to have the board agree to pay for the lighting and the ceiling and HVAC out of their funds. It passed unanimously provided the bid was accepted. He said that this was a major step and he was very thankful to the board for listening to the Governing Body.

Mayor Lamatina also reported on 200 Kmack, the abandoned gas station next to Gregory T's, where he noted that he had a conversation with Mr. Polidoro's attorney and they still did not have an agreement on the easement. The attorney said that Mr. Polidoro was working on a different plan which would not request the help of the Borough or the neighboring property and a slightly smaller building. He said that most likely, Gregory T's would be knocking down the house behind their restaurant.

He reported that the owner of two family house across from Dunkin Donuts and the Puddingstone Group were now at odds. The owner was now seeking to develop the property himself. The Mayor noted that everything related to redevelopment of Kinderkamack Road was now agreed upon and the plans were being finished. The final concept plan would essentially be the construction drawings and that it would be a short step from approving the final concept plan to construction and bid drawings and would be happening in the next month.

Council President Lazar reported on bylaws from Closter that he had received from the **Historical Commission**. He said that an attorney was looking it over at no charge to see how to make it applicable to the Borough. He said that he would have the **Police Department** report at the next meeting.

Councilman Hoffman gave the **Fire Department** report for the month of April. He said that the **Board of Health** unanimously voted to increase the Borough's pet licensing fees which kept the fees in line with surrounding towns. He said that the ordinance would be done at the Mayor and Council level. The **Shade Tree Commission** was recently notified by the Arbor Day Foundation that the Borough was recertified for five years as a Tree City USA. He thanked Shade Tree Commissioner Joe Solimando, Steve Frassa and the rest of the commission for all their hard work.

Councilman Shaw noted that Mr. Scarpa had sent an email regarding the hiring of part time **DPW** workers. Last year there were three part timers and in an effort to save money, they will only hire two individuals this summer – Michael Davis and Andy Bevilaqua for lawn mowing, park upkeep and general outdoor maintenance.

☞ **Motion** to appoint Andrew Bevilaqua and Michael Davis for seasonal temporary help as DPW summer workers at \$10.00 per hour was **moved** by Councilman Shaw, **seconded** by Councilman Lazar and carried by roll call vote:

**RC: Council members:**

**Browne-Yes**

**Rivers-Yes**

**Bair-Yes**

**Lazar-Yes**

**Hoffman-Yes**

**Shaw-Yes**

- Borough Clerk Carol Dray reported on online property auction companies, noting that she had done some research and met with a vendor, GovDeals.com. She said that she understood that the Borough made approximately \$12,000 last year auctioning off equipment online. The new vendor modeled their process after EBay. Ms. Dray commented that the online auction was most efficient, had the greatest exposure and was relatively easy to monitor and work with. The borough had more obsolete vehicles scheduled to be auctioned off and GovDeals.com was also better at auctioning off office equipment, computers and other items. She asked the Governing Body to consider who should be administering this process within Borough Hall. She emphasized that the Borough could bring in much revenue, but that the online auction required consistent monitoring as the website was modeled after Ebay. Councilman Lazar said that Bergenfield used them and that the company had a great reputation.

She also discussed the PARIS grant process, which provided federal money for the state, counties and municipalities. Ms. Dray said that her computer was a product of this grant and allowed her to do all the records retention electronically. She said that there were numerous historical records in the Borough as well as records that could be disposed of, but that there was not time to keep up with retention processing. Through the PARIS grant, a company will be coming in to go through the records for the Borough. It was scheduled to begin in May and they would reorganize everything, with a savings in labor and materials of several thousand dollars.

- Borough Attorney Phil Boggia had no report.
- Administrative – Mr. Scarpa was on vacation.

#### VIII. PUBLIC COMMENT

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 removal from the Council Chambers.

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

Ron Griffin, 87 Ackerman Avenue asked questions about the appraisal of Broadway and Spruce Avenue and the school board budget process

John Mallett, 109 Union Street commented on the Board of Education budget and the Council's involvement and shared his concerns about school funding.

Bill Bierman, 139 Eagle Drive had questions about Governor Christie's budget and the potential for restoring aid for education.

Ron Griffin, 87 Ackerman Avenue asked additional questions regarding the school board budget.

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

☞ **Motion** to close the meeting to comments from the public was **moved** by Councilman Bair, **seconded** by Councilman Rivers and carried.

IX. RESOLUTIONS ON CONSENT AGENDA NO. 96-10

☞ **Motion** to approve the Consent Agenda Resolution No. 96-10 eliminating Ca 99-10 and with a separate vote on Ca 103-10 was **moved** by Councilman Hoffman, **seconded** by Council President Lazar and carried by roll call vote.

**RC: Council members:**

**Browne-Yes**  
**Rivers-Yes**  
**Bair-Yes**  
**Lazar-Yes**  
**Hoffman-Yes**  
**Shaw-Yes**

Ca 97-10	Bill List
Ca 98-10	Withdrawal from Bergen Municipal Employee Benefits Fund
Ca 99-10	Establish Section 125 Plan - <b>PULLED</b>
Ca 100-10	Approval of Meeting Minutes – Regular meetings of: February 16, March 2, March 16, May 4; Special Meeting: March 30
Ca 101-10	Agreement - County of Bergen & Borough of Emerson Automated Emergency Telephone Alerting Service (C3)
Ca 102-10	Strikes & Spares Liquor License - Special Renewal
Ca 103-10	Resolution Certifying the General fund Tax Levy for the Emerson Board of Education for the School Year 2010-2011, by the Governing Body of the Borough of Emerson, County of Bergen, State of New Jersey – <b>VOTED ON SEPARATELY</b>
Ca 104-10	Emergency Temporary Budget

☞ **Motion** to approve the Consent Agenda item Ca 103-10 was **moved** by Councilman Hoffman, **seconded** by Councilman Rivers and carried by roll call vote.

**RC: Council members:**

**Browne-Yes**  
**Rivers-Yes**  
**Bair-Abstain**  
**Lazar-Yes**  
**Hoffman-Yes**  
**Shaw-Yes**

X. CLOSED EXECUTIVE SESSION - Resolution No. 105-10

☞ **Motion** to go into an executive session to discuss matters exempt from the public as duly noticed by Resolution No. 105-10 was **moved** by Councilman Hoffman, **seconded** by Councilman Shaw and carried by roll call vote.

**RC: Council members:**

**Browne-Yes**  
**Rivers-Yes**  
**Bair-Yes**  
**Lazar-Yes**  
**Hoffman-Yes**  
**Shaw-Yes**

#10-5/18-11 Potential Litigation – 12 Marianna Place N.J.S.A. 10:4-7

XI. RECONVENE

☞ **Motion** to reconvene was moved by Councilman Browne, seconded by Councilman Rivers and carried.

XII. ADJOURNMENT

With no other business to address, at the request of the Mayor, Councilman Rivers **moved** to adjourn the meeting, **seconded** by Council President Lazar and carried at 10:00 p.m.

Carol Dray, RMC/CMC/CMR  
(Proofed 6/25/10)

June 23, 2010