



MINUTES
BOROUGH OF EMERSON
MAYOR AND COUNCIL
OCTOBER 6th, 2009
7:30 P.M.



Call to Order

Mayor Lamatina called the meeting to order at 7:42 pm. Ms. Marcia DeSalvo led the salute to the flag followed by a moment of silence at the request of Mayor Lamatina.

O.P.M.A. Statement

Mayor Lamatina read the Sunshine Statement announcing that the meeting of October 6th, 2009 had been adequately noticed and was in compliance with the provisions of the Open Public Meetings Law. Further, that the meeting was included in the Annual Meeting Notice Resolution sent to the Bergen Record and Ridgewood News and advertised in said newspapers; posted on the bulletin board in the Borough Hall, Municipal Place, Emerson, NJ 07630 and has remained continuously posted as the required notices under the Statute. In addition, a copy of the notice was on file in the Office of the Municipal Clerk and had been available to the public since its approval by the governing body.

Roll Call:

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

Also present were Borough Clerk Carol Dray and Phil Boggia, Borough Attorney.

I. UNFINISHED BUSINESS

- Library – Library Board Trustees Marcia DeSalvo, Bill Bierman and Elizabeth Craig gave a PowerPoint presentation clarifying the Library's budgetary accounting in pursuit of aid from the borough to help fund their proposed building renovation. CFO Catherine Henderson was also present for this discussion. Ms. Craig reviewed the Library's budget, its financial status and their plan to secure the projected \$450,000 needed to do the renovation. She reviewed construction estimates, architectural fees, capital improvements, design and decorating costs. Ms. Craig also detailed the Library's Cash Management Fund, and Renovation Savings Account She accounted for the excess in their General Operating Funds, projected proceeds from a fund raising letter and the amount they anticipated saving out of the 2009 budget, as well as 'unknowns' which she said roughly corresponded to the Capital Improvements they were requesting. She mentioned that articles in the newspapers regarding investigations of the Library's finances had been a

source of real discomfort and any money saved was reserved for the renovation of the Library. Ms. Craig claimed that the library facility was the only cultural center in the Borough and that it was seeking to partner up with the borough to do what they all should be doing for their town. Ms. Craig added that the trustees were willing to be creative and frugal if they had to. She asked that the Borough acknowledge that the capital improvements were realistically and honestly the responsibility of the town and let the trustees know how and when they could expect to receive their funding because they could not go out to bid unless they knew they could commit to going forth with the project.

Councilman Loffredo and Mayor Lamatina questioned some of the figures in the presentation as well the results of the recent audit. Mayor Lamatina commented that they had done a very good job in recent years amassing money and questioned the Library's request to keep \$140,000 in the General Fund as he considered that amount a great deal of money when they were by statute getting money from the Borough to meet their expenses. His concern was that the Library was amassing a surplus while residents' taxes were going up. He added that while it was fiscally sound to have savings, the Borough did not have the luxury to have that kind of surplus funds. Councilman Bair questioned why no one had opened up the suspended ceiling to check on the status of the ducts. The Mayor emphasized that now was the time to put together a package and go out for bid, because if bids came in for less than the Library was estimating, the sum the Library was requesting from the Borough would change. He agreed that the Library needed a facelift; however, the expectation by the Library of the borough's contribution to that effect had gone askew. He added that the Council had been told that they would have to pay the Capital expenses; however, he explained that was not what the statutes said. In effect, the Library could pay Capital out of its statutory appropriation. Ms. Craig disagreed stating that she did not believe that the Emerson Public Library met the criteria referenced in that statute. Mr. Bierman maintained that the Library had returned money to the Borough totaling approximately \$500,000. In addition, Mr. Bierman said that in 2009 the Library was giving back approximately \$45,000 and that they helped save the taxpayers money year after year. Ms. Henderson corrected Mr. Bierman by explaining that those give-back funds paid for actual costs incurred by the operation of the library including health benefits for Library employees, garbage, and sewer fees. The Mayor again emphasized that if the Library expected a response from the Council, plans for specifications would need to be prepared and the library would have to go out to bid so that they could make an informed decision. Ms. Craig finished by stating that the Board would decide whether to spend the money to go out to bid and thanked everyone for their time.

- Background checks – Mr. Boggia said that they were ready to move forward on this and should have it ready for first reading at the next meeting. Council President Hoffman expressed concern on who the information would be shared with if a background check revealed something. Mr. Boggia said that the information would be provided to the Police and the Administrator. The

Governing Body also discussed the mechanism of an appeals process. Ms. Dray explained that they would only be looking for a certain level of felony and that the information would be confidential. The consensus was to work on drafting an ordinance. The Mayor said that it was something that was long overdue and needed to be put in place.

- Broadway – The Mayor explained that he wanted to generate some facts to the general public because of some inaccurate information that was circulating about the topic and asked the council to provide input. The Governing Body agreed to put out a flyer– an unbiased document to inform the public what was at stake. Council President Hoffman emphasized that he wanted to see the final draft before it went out and that it the draft should be discussed in public. Councilman Heyer added that it should be as neutral as possible and recommended that it be in a question and answer format to educate and inform. Council President Hoffman noted that it should discuss the benefits of revenue as well as open space. The Mayor agreed and stated that they had a duty to the residents to explain what was going on. The consensus was to draft and disseminate a document and vote on it at the October 20th meeting. The Mayor requested that Mr. Scarpa draft a document for the next meeting upon his return from vacation.

II. NEW BUSINESS

- Eminent Domain Ordinance – Council President Hoffman proposed that the Borough of Emerson add an amendment to the Redevelopment ordinance that would prohibit the transfer of private property from one entity to another. He read a model ordinance from the Borough of Red Bank that prohibited eminent domain. Councilman Heyer expressed several legal concerns based on the redevelopment statute and whether an eminent domain ordinance would withstand judicial scrutiny since it contradicted and restricted a lot of the provisions in the redevelopment law. He also said that it was dangerous to make a decision that could hamstring a Governing Body in the future as to what they could or could not do. Instead, he felt that eminent domain should be handled on a case by case basis. Councilman Lazar agreed with Council President Hoffman that threatening to take someone’s property if they can’t improve it the way the Borough wanted and giving it to someone else who had the financial resources to do it was a difficult thing to balance. Mayor Lamatina stated that no one liked the idea of eminent domain and he said that it would be a last resort in Emerson. Mayor Lamatina remarked that there were interesting arguments on both sides and there was no right answer. The Governing Body debated the legal ramifications of such an ordinance and whether the threat of eminent domain had helped or hurt the Borough and the redevelopment process. The Mayor said that if he had three Council members who wanted the ordinance placed on the agenda, he would direct it to be done and suggested the possibility of adding a sunset ordinance. Councilman Loffredo suggested hearing from the Borough Planner and Borough Attorney to see what impact such an ordinance would have. Council President Hoffman concluded by asking to have the ordinance sent to Mr. Boggia and Mr. Burgis for review so that it could be discussed at the next meeting.

☞ **Motion** to amend the agenda to add a report from Ms. Henderson on the Bond Anticipation Note was **moved** by Councilman Lazar, **seconded** by Councilman Loffredo and carried.

Ms. Henderson informed the Governing Body that they had sold some BANS on a temporary basis in anticipation of purchasing bonds next year. She outlined the bid process, temporary funding, why it was done, and the results.

- Stop & Shop Request for Holiday outside garden display (Chapter 196-10; re: Parking Lots)

Council President Hoffman recused himself from the discussion.

☞ **Motion** to approve Stop and Shop's request for an outside holiday garden display was **moved** by Councilman Bair, **seconded** by Councilman Heyer and carried by roll call vote.

RC: Council members:

Browne-Yes
Lazar-Yes
Loffredo-Yes
Heyer-Yes
Bair-Yes

III. INTRODUCTION OF ORDINANCES

1388-09 AN ORDINANCE AMENDING CHAPTER 274 OF THE CODE OF EMERSON ENTITLED VEHICLES AND TRAFFIC ARTICLE VII, SCHEDULE III § 274-39 TITLED ONE-WAY STREETS

The Governing Body discussed extending the sunset date from December 31st to the end of the school year in June 2010 and agreed to make this amendment to the ordinance.

☞ **Motion** to introduce Ordinance #1388-09 on first reading with an amendment to revise the sunset date to June 30th, 2010 was **moved** by Councilman Loffredo, **seconded** by Councilman Lazar and carried by roll call vote.

RC: Council members:

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

Mayor Lamatina announced that Ordinance #1388-09 would be further considered at a Public Hearing to be held on October 20, 2009 at 7:30 p.m. in the Council Chambers of the Borough Hall, Municipal Place, Emerson, N.J. and published in the October 9th, 2009 edition of the Ridgewood News. He added that this ordinance was on file in the Clerk's Office and posted on the official bulletin board of the Municipal Building where copies would be available to the General Public at no charge.

IV. 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 Councilman Loffredo, **seconded** by Councilman Heyer and carried at 9:15 p.m.

Vincent Donato, 128 Vivian Avenue requested that a diagram of Broadway and monetary figures be available for the public's consumption. In addition, he claimed that residents and business owners would support an eminent domain ordinance. He also praised the library's presentation.

Mayor Lamatina responded that the information Mr. Donato requested should be included in any document prepared by the Borough for distribution to the public.

Gary Schwinder, 99 Linden Avenue stated that he supported an eminent domain ordinance and agreed with a temporary hiatus period. The Mayor commented that even if an eminent domain ordinance was in effect, it could still be vacated to use that power down the road. Mr. Schwinder also questioned the contents of the Broadway newsletter and recent inaccurate facts that had been circulating.

Cathy Hornack, 123 Palisade Avenue discussed changing High Street to a one way, commenting that it will be unsafe for the residents all the time when the need was for a short period only during school days. She questioned who would be monitoring the effects of redirecting traffic down High Street and the impact on surrounding streets. Councilman Lazar explained that it was necessary for the Governing Body to take this step because the Police, crossing guards, the traffic engineer and the school felt that this change would alleviate the threat of children being injured during the drop off period. He added that ultimately the Borough had to worry about the safety of its children and that the trial period would give a good indication of the effectiveness of the safety of this change. Councilman Loffredo reiterated that the intent of the change was to reduce risk as much as possible. The Mayor emphasized that there was chaos at this location and it could not be left that way – the change was designed to take traffic away from the school and eliminate the chaos.

Teresa Wallace, 114 Palisade Avenue stated that more traffic would result on High Street and Palisade Avenue due to the change in the traffic pattern. She commented that people that did not live in this area did not care when driving in her neighborhood.

Rob Fecci, 8 Erie Avenue discussed water runoff on Broadway and shared pictures with the Governing Body. He mentioned the settlement that the Borough had with him and his neighbor, Andy Workman, that stated that the Borough made no representation regarding ownership or the right to control the property of the paper street of Broadway. It also stated

that the owner agreed to maintain the improvements but he wanted to know if the Borough would compensate him for his expenses for a retention basin and maintenance of the property since 2004. He also questioned whether the costs for educating additional students would increase taxes and potential lawsuits related to drainage issues. The Governing Body reviewed drainage issues related to his concerns.

Lisa Thomas, 4 Walnut Avenue asked that all Broadway residents receive the Borough mailer to proof it before it was mailed to residents and shared her concerns about the water barrier and the safety of children walking on the path. Mayor Lamatina and Councilman Loffredo emphasized that the path would be improved and safer and that a pocket park would be added. In addition, Ms. Thomas detailed what information she wanted included in the newsletter. Mayor Lamatina stated that the Governing Body was tired of hearing misinformation and suggested that those opposed to selling the Broadway property should disseminate the information they are circulating to the Governing Body before it was distributed. He explained that an incredible amount of misinformation was being distributed and it was just plain wrong. He explained that the public should decide and that it be done fairly. Mayor Lamatina said that the Broadway newsletter was a deliberative document and suggested that Ms. Thomas come to the next meeting to discuss its contents at an open public session.

Gary Schwinder, 99 Linden Avenue commented on the High Street one-way concept. He suggested that the change was a giant leap instead of a small step and put an undue burden on Union and Clinton Streets. The Governing Body addressed Mr. Schwinder's concerns by reviewing the process that had let them to make the determination to enact the ordinance.

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 Heyer, **seconded** by Council President Hoffman and carried.

V. RESOLUTIONS ON CONSENT AGENDA NO. 192-09

☞ **Motion** to approve the Consent Agenda Resolution No. 192-09 was **moved** by Councilman Heyer, **seconded** by Council President Hoffman and carried by roll call vote.

RC: Council members:

Browne-Yes

Lazar-Yes

Loffredo-Yes

Hoffman-Yes

Heyer-Yes

Bair-Yes

- | | |
|-----------|---|
| Ca 193-09 | Confirm Endorsement of Community Development Project – Senior Citizen Activities for \$3000.00 |
| Ca 194-09 | Confirm Endorsement of Community Development Project – Senior Citizen Health Center Improvements for \$28,000 |
| Ca 195-09 | Approve 2009 Municipal Alliance Grant |

- Ca 196-09 Supporting Kinderkamack Road Improvements in conjunction with the County of Bergen sans one redeveloper or full scale redevelopment
- Ca 197-09 Approve Block Party – Residents of Orchard Avenue
- Ca 198-09 Community Development Delegate
- Ca 199-09 Award Contract for Lincoln Blvd. Inlet Improvements

VI. CLOSED EXECUTIVE SESSION – Resolution No. 200-09

☞ **Motion** to close for an executive session to discuss matters exempt from the public as duly noticed by Resolution No. 200-09 was **moved** by Councilman Heyer, **seconded** by Councilman Bair and carried by roll call vote.

RC: Council members:

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

- #09-10/6-40 Hillman Field N.J.S.A. 10:4-12-8

VII. RECONVENE

☞ **Motion** to reconvene was **moved** by Councilman Heyer, **seconded** by Councilman Bair and carried at 10:40 p.m.

XII. ADJOURNMENT

With no other business to address, at the request of Mayor Lamatina, Councilman Loffredo **moved** to adjourn the meeting, **seconded** by Council President Hoffman and carried at 10:50 p.m.

Carol Dray, RMC/CMC/CMR
(Proofed 12/14/09)

October 27, 2009