



MINUTES
BOROUGH OF EMERSON
MAYOR AND COUNCIL
JULY 20, 2010
7:30 P.M.



Borough Hall-Council Chambers
Emerson, NJ 07630

Call to Order

Mayor Lamatina called the meeting to order at 7:40 pm. Andy Hipolit led the salute to the flag followed by a moment of silence at the request of the Mayor.

O.P.M.A. Statement

Mayor Lamatina read the Sunshine Statement announcing that the meeting of July 20th, 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, Borough Attorney Phil Boggia and Business Administrator Joseph Scarpa.

I. PROCLAMATIONS & CITATIONS

Supporting the Mayors' Wellness Campaign

Mayor Lamatina read the proclamation encouraging Emerson residents to participate in the Mayors' Wellness Campaign activities to promote exercise and healthy living to improve health, reduce healthcare costs related to obesity and make New Jersey a national leader in community based health prevention.

II. APPOINTMENTS/RESIGNATIONS - None

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 June 11, 2010 from Assemblyman John DiMaio; Re: Assembly Bill 2555, Public Library funding
- Letter dated June 15, 2010 from A. Wieners, State PBA President & Bill Lavin, State FMBA President; Re: 2.5% Cap Proposal
- Letter dated June 17, 2010 from Jeannette Vreeland, Acting Chair, NJ Fish & Game Council; Re: Trap-Neuter-Return Resolution
- Letter dated June 18, 2010 from NJDOT Commissioner James Simpson; Re: Municipal Aid, bikeway, Centers of Place, Safe Street to Transit & Transit Village Programs
- Letter dated June 22, 2010 from Joseph Rutch, Director, Bergen County Community Development; Re: CD Block Grant, HOME Program
- Letter dated June 22, 2010 from Teterboro Mayor John Watt; Re: Legislative proposal to dissolve Teterboro
- Letter dated June 28, 2010 from Teterboro Mayor John P. Watt; Re: Protesting legislation to divide Teterboro land and ratables between South Hackensack, Little Ferry, Moonachie and Hasbrouck Heights
- Letter dated July 4, 2010 from Teterboro Mayor John P. Watt; Re: Protesting legislation to divide Teterboro land and ratables between South Hackensack, Little Ferry, Moonachie and Hasbrouck Heights
- Letter dated July 12, 2010 from Kathy Leon; Re: 5/25/10 Recognition of Patrol Officers Carol Leins and Joseph Alasio
- Letter dated July 14, 2010 from Assistant DEP Commissioner Wolfgang Skacel; Re: Emerson recognized as Environmental Steward

IV. NEW BUSINESS

- Request for a Special Emergency – Borough-wide Re-assessment - Resolution No. 149-10 – Mr. Scarpa said that he had received a memo from Tax Assessor Claire Psota recommending a town-wide reassessment to bring property values in line with today's market instead of 2006 when the revaluation was performed. Ms. Psota requested that the Borough do a voluntary reassessment, explaining that the 2010 County tax appeals were numerous and that she had settled 70% of them since she could not defend the values. Those settlements totaled about \$100,000 in refunds; not counting appeals heard by the Commissioner and had not yet received judgments or those going on to State tax records. She said that 2011 will be the fourth year since the revaluation and the State allowed a municipality to conduct a voluntary reassessment up to four years after the revaluation. She explained that this was the Borough's last opportunity to perform a voluntary revaluation as opposed to a full blown revaluation which would be triple the cost. She noted that the Bergen County Board of Commissioners was meeting on July 29th and then not again until September so she had to get the application in by July 29th or it would be rejected by the State. If the Borough approved, she requested going to the upcoming meeting and apply at the

County where they could approve it pending a revaluation contract. She emphasized the huge time constraint and that this process was in the best interests of Emerson. She mentioned that the County could force the Borough to do a revaluation which would cost significantly more than her estimate of \$60,000 to \$80,000. Ms. Psota believed the Borough would qualify for a special emergency that could be paid over a five year period. Mr. Scarpa said that he would work with Ms. Psota before the next meeting to get vendor price quotes and referenced one informal estimate of \$80,000. Councilman Bair inquired as to why it would cost so much if the vendor did not have to examine properties. Ms. Psota explained the process and Mr. Scarpa remarked that he had only received one informal estimate so far. Borough Auditor Gary Higgins reviewed the financial details of a special emergency expense, noting that the Borough would need to do a resolution and an ordinance with no approval necessary from the Local Finance Board.

The Mayor said that the Council had only just received the memo from Ms. Psota to the Borough Administrator dated July 1st the previous Friday and did not think that the Governing Body was prepared to act on it on such short notice. Mr. Boggia and Ms. Psota explained that implementing a reassessment would avoid the much greater expense of a complete revaluation. Mr. Boggia remarked that the fair way to do this was to reassess everything, bring the values down if necessary, and bring the tax rate up so that the steady flow of tax appeals would end. Mr. Scarpa commented that a revaluation was not done to bring in more money. Ms. Psota said that the total budget would be divided by the total assessment to determine the tax rate. Mr. Higgins said that the people filing now were taking advantage of the lower assessed value, and everyone else was still at the higher value and paying more money. A revaluation would bring everyone to the same level. Council President Lazar remarked that the cost of the reassessment was insignificant compared to the amount of money returned on appeals. He said that they were on the right path and that the adjustments needed to be made as soon as possible since the tax system was uneven and unfair. The Governing Body consensus was to introduce the ordinance on August 3rd.

☞ **Motion** to adopt Resolution No. 149-10 to permit a Borough-wide property reassessment was **moved** by Councilman Bair, **seconded** by Councilman Rivers and carried by roll call vote:

RC: Council members:

Browne-Yes

Rivers-Yes

Bair-Yes

Lazar-Yes

Hoffman-Yes

Shaw-Yes

- 2009 Audit – Borough Auditor Gary Higgins reviewed the 2009 Audit Report and the general comments related to the Municipal Court, the Recreation Commission and several purchase orders issued before the Finance Department was notified. Suggestions for solutions to these issues were reviewed and agreed upon by the Governing Body, the Administrator and the CFO.
- Debt management: Bonding/Paying down Unfunded Outstanding Debt- Mr. Higgins began a lengthy discussion about the useful life of bonds and laid out two scenarios for the Council to take action on because the borough was required to start payment on notes next year. A deck of financial charts and graphs outlining both scenarios had been prepared and was distributed at the meeting for Council's consideration. Mr. Higgins explained the difference between a 'non-conforming' schedule and a conforming schedule which in essence was the difference of bundling the new ordinance in or leaving it out to spread out the number of years financing. He said that the Borough had almost \$2 million of unfunded debt presently outstanding. He explained the applicable statutes for selling bonds and their useful life, interest rates and debt service scenarios. It was Mr. Higgins recommendation that the Borough file an application with the Local Finance Board (non-conforming scenario) for placement on the August agenda for the purpose of requesting Trenton to 'bend the rule' in effect to take advantage of the favorable permanent market rate. He warned again that time was of the essence since the next meeting of the Mayor and Council was after that date in August when the Local Finance Board met. The Governing Body questioned him on details of his presentation and was concerned that they were being pressured to take action on a topic that they had no any prior knowledge of. Mayor Lamatina asked for Mr. Scarpa and Ms. Henderson's thoughts. Mr. Scarpa said that he had spoken to Mr. Higgins and Ms. Henderson and that they had recommended the non-conforming scenario. Councilman Rivers asked why it was just being presented that evening. Ms. Henderson commented that the Bond Council was consulted with a few weeks prior in answer to his question but the follow up had not been made until the last 24 hours. The Mayor was reluctant to act on the matter but agreed to suspend the discussion for later in the meeting. Mr. Higgins reminded them that the application could be pulled for a minimal cost.

Due to time constraints, Mayor Lamatina altered the agenda to move on to Hillman Field – Engineer's Report. Borough Engineer Andy Hipolit gave a positive closing report on Hillman Field by detailing seed and grass conditions, as well as soil and drainage. Councilman Rivers stated that the field looked better than it ever had but that the infield still needed a lot of work. He added that the outfield looked really good and remarked that Mr. Callagee had done a good job. Councilman Shaw agreed that it felt and looked better and the drainage was so much better.

Mr. Hipolit told the Governing Body that applications were due August 13th for County road projects. He also recommended applying for a County grant for local aid for the sidewalk project. Mayor Lamatina asked Mr. Hipolit to get a summary to Tom Connelly at the County. He said that he would send Ms. Dray the resolutions required by the NJDOT for the applications. The Mayor added that the Borough was very close to final approval of the Kinderkamack Road plan. Mr. Hipolit explained to the Governing Body about TIGER 2 Grants, which were funded through the nationwide stimulus package. He said that smaller municipalities could submit an application of need to determine if they would qualify for grants and had a 50-50 chance of getting one. The Mayor asked Mr. Hipolit to keep the Governing Body informed of his work and noted that the Borough could use funds for streetscaping. He thanked Councilman Browne for his work on this project.

The Governing Body returned to the bond issue. Councilman Rivers queried if the governing body believed that the percentage of bonds would go down or up over the next year. He added that 3.25% was a great rate on a bond and that it was matter of personal opinion whether the rate could go even lower. Councilman Shaw asked whether they should vote to make application to the Local Finance Board and spend the \$600 or \$700 it would cost and then rescind the application should they decide otherwise. He added that bonds were at or close to historical lows and that they would need to do some independent research and additional time to think about it. But since there was a deadline that must be met, his inclination was to authorize Mr. Higgins to proceed with the application which could be retracted, if after further consideration, it was considered not the right move at this time. Councilman Bair commented that it was a very good rate and that something should be done to stabilize the repayment. Councilman Shaw agreed that they would be buying ten years of stability. The Mayor asked for a consensus to move forward on the application. Councilman Browne agreed that the Borough would be protecting itself over a ten year period as opposed to gambling each year. Council President Lazar agreed to vote for the Local Finance Board application, explaining that it would give him more opportunity to research it as well.

☞ **Motion** to authorize the Borough Auditor to file the application with the Local Finance Board for the bonding scenario that he laid out was **moved** by Councilman Rivers, **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

- Police Promotion

The agenda was rescheduled to allow Chief Saudino to promote Officer Michael Mazzeo to Sergeant. He explained the promotional procedure, stating that the next in line based on scores was Officer Mazzeo. Mr. Scarpa stated that the Chief recommended that Police Officer Mazzeo be promoted to Sergeant and that he had agreed not to take the Sergeant pay for the rest of the year. Council President stated that because of the need for a Sergeant and the substantial savings by making the promotion at the current time, and the fact that all current Council members were involved in the previous interview process for Sergeant and that they were all in agreement at that time on first, second and third place, his recommendation was to move forward and make the appointment. Mayor Lamatina told Officer Mazzeo that he was very impressed and that he did very, very well. Councilman Shaw agreed and said that his performance in the course of the process was exemplary. He emphasized that he thought Officer Mazzeo's interview was the most prepared and comprehensive. He had tremendous respect for what he brought to the table, what he did for the town and that he was a great choice. He added that he was home grown, a lifer, involved in every sport program, and was a great guy, and that his was the quintessential great interview and a great candidate. Mr. Scarpa again reviewed the system for rating candidates for promotion in the Police Department, explaining that it was rated on seniority, commendations received, and scores on a written exam. He explained that it was a very fair process. Mr. Scarpa announced there would be a ceremony at the August 3rd meeting.

☞ **Motion** to promote Officer Mazzeo to Sergeant was **moved** by Council President Lazar, **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

- Resolution No. 146-10 Opposing S-0278 AND A-2939, Legislation which seeks to dissolve Teterboro and Divide It Between the Boroughs of South Hackensack, Little Ferry, Moonachie, Hasbrouck Heights and Wood-Ridge, New Jersey – Mayor Lamatina said that Teterboro's fate was in the Council's hands, referencing Resolution No. 146-10. Councilman Hoffman said that this was not a Teterboro issue and that this set a dangerous precedent for other small towns to be unilaterally seized by the State. He said that the State was doing this on its own with no decision involved by Teterboro. Originally no public hearing was even planned; this was only changed because of recent pressure. He said that this seemed very undemocratic to him. He also pointed out that this was not a onetime only case. Senator Gordon and Assemblywoman Wagner had made their overall intentions very clear in an opinion piece in The Record and quoted them as saying 'Teterboro is just the first step'. He said that the Bergen County Executive and the former Governor talked about looking at small municipalities under 10,000 with the rationale that they were less efficient. Councilman Hoffman noted that there had never been any study to his knowledge that proved that. He added that a lot of larger towns and cities might be less efficient, sometimes with more corruption and that the State should be focusing on a lot of the reforms that municipalities had been asking for years. He said that there were a lot of things they could do instead of

what appeared to him to be a land grab and a move in the wrong direction for what he opined was for their own political purposes.

Council President Lazar asked about Teterboro's property taxes. Mr. Scarpa said that they were the lowest in the County. He pointed out that the rationale for taking Teterboro was the opposite of what the community stood for. Councilman Browne pointed out that Teterboro outsourced everything they did and had no property owners, only apartment dwellers. His understanding was that it was within the State's authority to do this however he said that they could not promise a twenty year tax abatement which was why he had issues with the way they were trying to do this. Councilman Browne said that Rutgers and Quinnipiac polls showed that an overwhelming number of residents would be happy to have a merger or consolidation if it would stabilize or reduce their taxes. Mr. Scarpa remarked that 70 out of the 100 lowest tax bills are in municipalities with populations under 10,000; the smaller the town, the lower the tax bill, the more efficient. Councilman Hoffman emphasized that the State was setting a dangerous precedent and that this would not be a onetime only shot from their point of view.

☞ **Motion** to pass the Resolution in opposition to the proposal to dissolve Teterboro and divide it among other towns and send the Resolution to the sponsors Senator Gordon, Senator Sarlo, Assemblyman Wagner and the Governing Body of Teterboro 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

V. UNFINISHED BUSINESS

- United Water – Emerson Woods Drainage – Mr. Scarpa's comments were inaudible. Councilman Hoffman said that there might be a grant available for Bergen SWAN to deal with the drainage issue. He explained that the banks needed to be regraded and volunteers would do plantings at the end of the project. He thought that a section of the area should be closed off and that it might be dangerous. Mr. Scarpa said that he would contact the appropriate people and perhaps have the Borough Engineer look at it.
- Background check ordinance – Councilman Rivers discussed an upcoming ordinance that would make sure everyone who worked with children under the age of 18 in the Recreation program was subject to a background check. He added that he and Mr. Scarpa had met with Chief Saudino and found out who had the State contract for this. He said that the cost would be \$26.25 with that group. His estimate of cost, based on the number of coaches would be about \$4,000 to do the initial tests which was exactly what was left in the budget from the town picnic that was cancelled. He estimated that the cost moving forward would be less than \$2,000 per year with new coaches coming in each year. He asked for feedback for the draft ordinance he had distributed. Councilman Hoffman asked how long the background check was

good for. Councilman Rivers said that it would be for a three year term, explaining that if it was done annually, it would cost way too much money. Councilman Hoffman also asked that if someone had recently undergone a background check like a teacher, would they have to take it a second time. Councilman Rivers said that he would make sure that people that were part of the school district or police would not have to resubmit for it. Councilman Lazar said that people that had a State license have to undergo a background check as well. Councilman River discussed the makeup of a review committee - the Borough Administrator, Police Chief and an officer of the Police Department appointed by the Police Chief on an annual basis. Councilman Shaw said that he had changed the failure appeal to 30 days from 20 days. Mayor Lamatina requested that this ordinance be placed on the August 3rd meeting agenda for first reading. Councilman Rivers emphasized that the Recreation Commission was all for this.

- Appraisal of property at Broadway & Spruce Avenue – Mr. Scarpa said that the Borough had received the revised appraisal and the new number was \$210,000 as a buildable lot. Mayor Lamatina asked how it should be advertised since everyone agreed it should be put up for sale. Mr. Boggia outlined the process, explaining that it would be handled the same as other property sales in the past. The only difference was that it was an undersized nonconforming lot so that it would have to be advertised as that. As a condition of sale, it would state that whoever bid on it would be given the opportunity to seek approval from the Land Use Board to put a house on it. He thought that the appraisal should be the minimum bid and opined that it was a reasonable price for a buildable lot.

☞ **Motion** advertise the property at Spruce Avenue and Broadway for a minimum bid of \$212,000 subject to approval and certain variances by the Municipal Land Use Board was **moved** by Councilman Bair, **seconded** by Councilman Hoffman and carried by roll call vote:

RC: Council members:

Browne-Yes

Rivers-Yes

Bair-Yes

Lazar-Yes

Hoffman-Yes

Shaw-Yes

- Oritani Bank/Dairy Queen – Council President Lazar said that he spoke with the Construction Code Official to see if the Certificate of Occupancy had been issued for the Oritani Bank. It had not been issued since it had not been signed off on by the Borough Engineer. The Engineer had not signed off because of controversy between the two property owners about an electrical wire underground that Dairy Queen felt was damaged during the bank's construction. The bank's attorney was of the position that no one had shown him proof that the damage was caused by construction and they were demanding their money back. The engineering company researched this and found that there was no proof and so was of the opinion that Oritani Bank had lived up to their obligation of the performance bond and that the money should be returned to

them. They sent a letter to the Construction Code Official stating such. Council President Lazar thought it was time to return the money to Oritani Bank so that the Borough did not get involved in any lawsuits. Mayor Lamatina said that a meeting had been previously scheduled for the next day at 10 a.m. Council President Lazar said that as far as he was concerned, it was resolved with the letter from the engineering company and he did not think it was up to the Council to become mediators in private disputes between neighbors. Mr. Boggia stated that he did not see any harm in a meeting with the parties involved to see if they could come to resolution. He added that the dispute had been going on too long and needed to be resolved but the Code Official felt that the wiring was damaged by the Oritani contractor. Council President said he did not find his testimony too credible and did not want to go with his testimony or his opinion because when he was questioned on the letter he was basing his opinion on, he said that he did not even read it. He found this highly questionable. Mayor Lamatina recalled reading that Oritani did say that they did damage the wiring but it was in the Borough right of way that should not have been there so the Borough should be legally responsible. Council President Lazar said that if the conduit was in the right of way they should send Dairy Queen a letter to remove any of their equipment from the public right of way. The Mayor replied that the owner of Dairy Queen said that he was given permission in 1995 to do that. Council President Lazar said that he would like to see his permit and that putting equipment on public ways was not allowed, adding that this was his field.

Mr. Boggia remarked that it was there, built and occupied, so the assumption was that somewhere along the line, someone knew about it and approved it. He maintained his position that there was no harm in trying to resolve it and if the Borough were to ask them to remove the underground conduit, the Borough would have a lawsuit on their hands. Councilman Bair said that he understood Council President Lazar's position since he did not want Emerson even named in a lawsuit. He wondered why Mr. Rossi of Dairy Queen did not just sue Oritani Bank. Mayor Lamatina said that this might happen if the issue was not resolved at the upcoming meeting. Council President Lazar said that he had no problem with this being resolved at the meeting, but as far as he was concerned, a letter had been sent to release the money and he was not going to use that as a leverage over Oritani to give money to the Dairy Queen because the borough had no legal right to do that. That would have to be taken out as a factor by returning the money to Oritani. He said that if they moved forward with that and the Borough was named in a lawsuit, then it would be on their head, not his. The Mayor commented that ironically, the idea to hold the money back came from the engineer at the beginning. Mr. Scarpa clarified that as of that point; Maser Engineering had not written a letter to the Construction Official or CFO to release the money. Council President Lazar again emphasized that the Borough could not use the holding back of the money as leverage to favor one property owner over the other on a property dispute between two property owners. Mr. Boggia stated that the Borough Engineer had said not to release the performance bond and that was his position for a long time, adding that the Borough's position was not arbitrary. This was the engineer's responsibility. He explained that under the Land Use Law, the engineer recommended not releasing the money so the Borough was just following his recommendation. Mr. Boggia said

that based on visual observation during construction, excavation took place in the area where the line was down. The Code Official concurred with that and said that in his opinion the damaged line was caused during construction of Oritani Bank. While there were no photographs or eyewitnesses, that is a conclusion that they drew and may be enough for them to prevail. He said that there was an unfortunate impasse but tomorrow as an opportunity to get it resolved.

Mayor Lamatina said it would show bad faith on the Borough's behalf if they did not meet tomorrow and that it was an issue ripe for resolution.

- Resolution No. 147-10 Calling on the State Legislature and the Governor to Enact Property Tax Reform with Passage of the "Municipal Toolkit" and Mandates Relief – Mayor Lamatina said that Governor Christie had sent all New Jersey Mayors a letter asking them to back his toolkit including a tax cap. He said that the 2% cap would hamper Emerson unless it had the toolkit. Councilman Hoffman said that it was well worded and took everything into account and should pass. Councilman Browne thought it was a bit corrosive to his process of allowing people to opt out of the civil service in larger municipalities although this did not apply to Emerson. The Mayor said that we needed these reforms but not agreeing to the somewhat onerous toolkit cap that was initially proposed. Mr. Scarpa said that although there was a cap, because of State aid cuts, there would be a tax increase. If there was stabilized aid and a tax cap, that would work.

☞ **Motion** to pass the resolution calling on the State Legislature and the Governor to enact property tax reform with passage of the Municipal Tool Kit and mandates for relief was **moved** by Councilman Hoffman, **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

VI. INTRODUCTION OF ORDINANCES

First Reading:

Mayor Lamatina announced that the following ordinance would be read by number and title by Ms. Dray. Upon approval of introduction, it would be further considered at a Public Hearing to be held on August 3rd 2010 at 7:30 p.m. in the Council Chambers of the Borough Hall, Municipal Place, Emerson, N.J. and published in the July 16th, 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.

Mayor Lamatina stated that Ordinance #1413-10 was being postponed as it was not ready in time.

1412-10 AN ORDINANCE TO AMEND THE CODE OF EMERSON, CHAPTER 112 THEREOF, ENTITLED BLOCK PARTIES AND STREET CLOSINGS, TO CHANGE FILING CRITERIA DEADLINES; PROOF OF INSURANCE AND LIABILITY AND THE AUTHORITY TO GRANT APPROVAL OR REVOCATION OF PERMIT TO THE BOROUGH CLERK REMOVING FORMAL ACTION BY THE GOVERNING BODY.

☞ **Motion** to introduce Ordinance #1412-10 on first reading 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**

1413-10 AN ORDINANCE AMENDING ORDINANCE NO. 1374-09 TO FIX THE SALARIES, WAGES, COMPENSATION AND OTHER TERMS OF EMPLOYMENT OF CERTAIN EMPLOYEES OF THE BOROUGH OF EMERSON FOR THE CALENDAR YEAR 2010

No action was taken on this ordinance.

Mayor Lamatina announced that the matter would be postponed and questioned the Borough Clerk and the Borough Administrator why the Council was not able to proceed with the first reading. Mr. Scarpa replied that he had given a copy to the Clerk for presentation that evening. The Borough Clerk countered that she had just received a revised copy that very afternoon after finding mistakes in the first copy. However, the revised copy was not received within the time frame pursuant to the Council's By-Laws that allowed the Governing Body to take formal action on matter. The Borough Administrator acknowledged that he did make corrections to the salary ordinance.

Second Reading and Public Hearing:

1409-10 BOND ORDINANCE AUTHORIZING AND PROVIDING FOR VARIOUS GENERAL IMPROVEMENTS, APPROPRIATING \$260,000 AS AN APPROPRIATION THEREFOR AND AUTHORIZING THE ISSUANCE OF \$247,000 OF BONDS OR NOTES OF THE BOROUGH FOR FINANCING THE COST OF SAID IMPROVEMENTS AUTHORIZED TO BE UNDERTAKEN IN AND BY THE BOROUGH OF EMERSON, IN THE COUNTY OF BERGEN, NEW JERSEY

☞ **Motion** to open the meeting to public comment on this topic only was **moved** by Councilman Shaw, **seconded** by Councilman Rivers and carried.

Seeing no hands, Mayor Lamatina asked for a motion to close the meeting to public comment on this topic only.

☞ **Motion** to close the meeting to public comment on this topic only was **moved** by Councilman Shaw, **seconded** by Council President Lazar and carried.

☞ **Motion** to adopt Ordinance #1409-10 on second reading was **moved** by Councilman Bair, **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**

1410-10 AN ORDINANCE TO AMEND THE CODE OF EMERSON; CHAPTER 247 THEREOF, ENTITLED STORMWATER MANAGEMENT TO ADD A NEW SECTION REQUIRING DUMPSTERS AND OTHER REFUSE CONTAINER THAT ARE OUTDOORS OR EXPOSED TO STORMWATER BE COVERED AT ALL TIMES

☞ **Motion** to open the meeting to public comment on this topic only was **moved** by Council President Lazar, **seconded** by Councilman Hoffman and carried.

Seeing no hands, Mayor Lamatina asked for a motion to close the meeting to public comment on this topic only.

☞ **Motion** to close the meeting to public comment on this topic only was **moved** by Council President Lazar, **seconded** by Councilman Shaw and carried.

☞ **Motion** to adopt Ordinance #1410-10 on second reading 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**

1411-10 AN ORDINANCE TO AMEND CHAPTER 35 ENTITLED FIRE DEPARTMENT §35-10 TITLED MEMBERSHIP; §35-15 TITLED CHARGES AGAINST A MEMBER; HEARING; §35-20 TITLED MANDATORY TRAINING AND §35-22 TITLED ANNUAL INSPECTION

☞ **Motion** to open the meeting to public comment on this topic only was **moved** by Council President Lazar, **seconded** by Councilman Hoffman and carried.

Seeing no hands, Mayor Lamatina asked for a motion to close the meeting to public comment on this topic only.

☞ **Motion** to close the meeting to public comment on this topic only was **moved** by Council President Lazar, **seconded** by Councilman Hoffman and carried.

☞ **Motion** to adopt Ordinance #1411-10 on second reading 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

VII. REPORTS

- Mayor and Council:

Mayor Lamatina said that he had sent a letter on June 3rd to Governor Christie and had not yet received a response. He followed up two weeks later with an assistant and had not heard back. He said that it was especially aggravating that the Pascack Valley Mayors' Association was being ignored as a group and that the group was considering certain action that he could not discuss. He thought it was time for the Borough to take some action, possibly in the form of a resolution.

He also stated that they were days away from final approval by the County of the concept plan for Kinderkamack Road. He said that one of the problems with not having formal approval was that agencies like NJ Transit were reluctant to act on easements. He said that the County understood that and he said that they were pushing the engineers to get this done. The Mayor also discussed taking the Paul's Emerson Hot Bagels strip mall and that the County wanted to reduce their parking by 40%. He proposed the concept of taking the strip mall out of the Redevelopment zone if all the owners would reface their building and wanted to have a meeting at Borough Hall with them to discuss this. He asked whether the Council would be inclined to amend the Redevelopment plan again to take these six owners out if they would agree to reface their building. Councilman Bair asked how that would affect the Kinderkamack Road concept. Mr. Scarpa said that it would not affect it. Councilman Bair responded that it would make the changes to the parking and sidewalk that they want, but it did not help that five parking spaces would be eliminated. The Mayor stated that the spots would be lost anyway but removing them from the Redevelopment zone would remove the threat of eminent domain and they could freely sell their properties. Council President Lazar said that he would like a recommendation from the Planning Board if the group came forward with a redesign plan before making a decision. Mayor Lamatina said that he did not want to delay the process so that he could let the owners know what was going on. The Mayor and Councilman Bair said that they were not optimistic, but that it was worth a shot.

Mayor Lamatina said that the Pascack Valley Mayors' Association had brought in BMED to discuss a variation on insurance proposals that Westwood was considering. He said that Westwood was now on the State Health Benefit Plan but their costs were increasing 11.7% next year. BMED was making an effort to get people back into BMED. He suggested that it be brought up at the Administrators' meeting to see what it was about and added that it involved cooperation by Borough employees to try to limit the amount of costs they incur.

Councilman Browne, Councilman Rivers, and Councilman Shaw had no reports.

Councilman Bair said that he had received the Building Department activity report and that it had a substantial increase over the last year. He said that to date in 2009 the figure was \$84,000 and to date in 2010 was \$136,000, a significant increase.

Council President Lazar gave the Police Department report for the month of June. He noted that the Historical Preservation Commission was in recess for the summer and would meet again in September.

Councilman Hoffman gave the June Fire Department report.

- Administrator Joe Scarpa discussed the Library's need for temporary space for two to four months during its renovation. The Mayor noted that the Library Board was looking to improve their bid specs at their August meeting and they did not know for how long they would need temporary space. Council President Lazar clarified that the library would assume the cost of the temporary space. Mr. Scarpa also said that the Borough was going with the County contract for garbage disposal and discussed the bid specifications for going out to bid for garbage collection next year. He said that he was looking into a joint bid with Oradell to save money. Council President Lazar said that Harrington Park was looking to share services and asked Mr. Scarpa to give them a call. He said that the Borough would also save money with a new company for Meadowlands mixed debris disposal which was giving the Borough a better price per cubic yard. He mentioned Shredding Day, a preconstruction meeting for the joint road project beginning at the end of the month, and that the County approved two grant applications - the Senior Activities which he had lobbied to increase and was increased 65% and for a roof replacement at the Senior Center. He submitted the COAH report to the State and reported that the fire escape at Borough Hall was completed.

Mr. Scarpa and Councilman Browne reviewed the status of the Borough website and migrating to a new provider, Govoffice.com. The proposal totaled \$4,996.00. Councilman Browne suggested that a meeting be scheduled to plan and spruce up the content for the new site. Councilman Rivers said that he would be happy to work with them on that. Mr. Scarpa estimated that the migration would take two to three months. The

Governing Body thought that using the website to update residents on upcoming work on Kinderkamack Road would be very helpful.

☞ **Motion** to authorize Mayor Lamatina to execute the agreement with GovOffice for a new borough website design and migration for \$4,996.00 was **moved** by Councilman Browne, **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

- Borough Clerk Carol Dray informed the Governing Body that by funding provided by the PARIS Grant the Borough was provided with the services of a record purging company and that this process had begun. They were cleaning out the attic, the basement, the vault, the Police room and the DPW storage room; of which some of those areas were in violation of the fire code because of the amount of records. She estimated that when the project was complete, records in storage that had outlived their statutory retention would be likely to be reduced by almost 50%.
- Borough Attorney Phil Boggia had no report.

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 Councilman Rivers, **seconded** by Councilman Hoffman and carried.

Chief Michael Saudino, owner of 189 Kinderkamack Road, Argenzia's Deli explained that he was at first speaking from a business owner's point of view and that reducing the parking spaces there from fifteen to nine was completely unacceptable. He said that property and business owners deserved some sort of support from the Governing Body and pointed out that there were eight retail stores there and if there were only nine parking spaces, it would drive those stores out of business. He opined that this might be some people's ulterior motive. He conceded that it was unsightly and had had the idea to approach the rest of the owners and reface the front. Speaking from the Police Chief's point of view, having cars back out onto Kinderkamack Road was a bad thing. If the spots were realigned and reduced to nine, backing out would make it more hazardous than the current entering and exiting

route because the cars would be too close to the buildings. He emphasized that backing out of a spot was twice as dangerous as leaving a spot by driving forward. Mayor Lamatina suggested that customers park in the back of the building. Chief Saudino said that the back lot was full most of the day due to deliveries and dumpsters. The Mayor explained that the optimal solution was to redevelop the site with realigned parking; this was the next alternative suggested by the County and our engineers. The Chief said that perhaps the engineer was in a rush to finish and that people might be settling for things that should not be. He emphasized that he believed that a bit of loyalty was owed to those business and property owners in spite of how unsightly it looked. He pointed out that if eight retail stores submitted a plan with nine parking spots, it would be rejected so that these businesses should be given the same consideration. He said that 40% less parking was just not acceptable. Councilman Hoffman asked how often the current fifteen spots were in use. Chief Saudino said that they were usually pretty well filled up. Mayor Lamatina stated that he understood that it was never good for a property to lose spots and they understood that. Councilman Bair said that at the very beginning of the process the County made it quite clear that they wanted to cut down on the number of ins and outs on Kinderkamack Road and they wanted the road curbed, so Chief Saudino should have kind of known that this was going to happen from the very beginning. He said that they were just eliminating two spots or so to create ingress to the property. Councilman Bair continued that he thought that the Chief was asking us to petition on his behalf to get this changed and added that they were reluctant to throw any kind of roadblock into the process but he assured the Chief that they will try.

Pat Palagonia, 2 Oakland Avenue discussed the sale of the property at the corner of Broadway and Spruce, referencing the recent referendum on Broadway last November where the decision was made to preserve that property and keep it in a natural state. She inquired what was being done about that. Councilman Hoffman said that it was something to go forward on and that it would be added to an agenda. Councilman Bair said that they would look into rezoning the property in the appropriate way to protect it and he would put it on the next Municipal Land Use Board Agenda.

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 Hoffman, **seconded** by Councilman Bair and carried.

IX. RESOLUTIONS ON CONSENT AGENDA NO. 129-10

☞ **Motion** to approve the Consent Agenda Resolution No. 129-10 with the removal of Ca 131-10 was **moved** by Councilman Hoffman, **seconded** by Councilman Rivers and carried by roll call vote.

RC: Council members:

Browne-Yes

Rivers-Yes

Bair-Yes

Lazar-Yes

Hoffman-Yes

Shaw-Yes

- Ca 130-10 Approve Bill List
- Ca 131-10 Approve Amending Borough Conference/Convention Leave Policy - **PULLED**
- Ca 132-10 Approve 2010 Mayor and Council Regular Minutes: 4/6, 4/13, 4/19, 5/18, 6/1, 6/15
- Ca 133-10 Approve Cancellation of Grant Balance
- Ca 134-10 Authorize withdrawal from Employee Group Health Benefits Membership in the Bergen Municipal Joint Insurance Benefits Fund
- Ca 135-10 Supporting the Mayors Wellness Campaign
- Ca 136-10 Authorizing Participation in NJ State Health Benefits Program Act of the State of NJ for Domestic Partnership Coverage
- Ca 137-10 BCUA Solid Waste Agreement
- Ca 138-10 Approve utilizing the GovDeals.com Auction site
- Ca 139-10 Release Performance Guarantee – Emerson Hotel – 31 Emerson Plaza East in amount of \$40,080
- Ca 140-10 Approve Coin-operated Laundry/Dry Cleaning License Renewal - Emerson Cleaners
- Ca 141-10 Bergen County Open Space Trust Fund Municipal Program – 2009 Award – Centennial & Wagner Park Improvements - \$15,984
- Ca 142-10 Authorization to issue Certification of Exemption to Ronald A. Solimando as member of Emerson Volunteer Fire Department
- Ca 143-10 Authorize Agreement for the Disposal of Vegetative Waste
- Ca 144-10 Authorize Change Order # 1 for Proposed New Fire Escape for Emerson Borough Hall in the amount of \$4,230.00
- Ca 145-10 Authorizing Application to the Local Finance Board Pursuant to N.J.S.A. 40A:2-26(e)

X. CLOSED EXECUTIVE SESSION - Resolution No. 148-10

☞ **Motion** to go into an executive session to discuss matters exempt from the public as duly noticed by Resolution No. 148-10 was **moved** by Councilman Rivers, **seconded** by Councilman Shaw and carried by roll call vote.

#10-7/20-14 EVAC Disciplinary Actions N.J.S.A. 10:4-8

XI. RECONVENE

☞ **Motion** to reconvene was **moved** by Councilman Browne, **seconded** by Council President Lazar and carried.

XII. ADJOURNMENT

With no other business to address, at the request of the Mayor, Councilman Shaw **moved** to adjourn the meeting, **seconded** by Councilman Browne and carried at 11:40 p.m.

Carol Dray, RMC/CMC/CMR
(Proofed 08/12/10)

July 26, 2010