



MINUTES
BOROUGH OF EMERSON
MAYOR AND COUNCIL
NOVEMBER 9, 2010
7:30 P.M.
Borough Hall-Council Chambers
Emerson, NJ 07630



Call to Order

Mayor Lamatina called the meeting to order at 7:32 pm. Mr. 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 November 9th, 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 Browne – Present
Councilwoman DiPaola - 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.

III. PROCLAMATIONS & CITATIONS - None

IV. APPOINTMENTS/RESIGNATIONS - None

V. CORRESPONDENCE - None

VI. UNFINISHED BUSINESS

- Inquiry to Hillman Park field conditions-Andy Hipolit, Maser Consulting – Council President Lazar stated that there were questions regarding Hillman Field from Borough residents who were directly involved with sports at that location. He asked Mr. Hipolit to address those concerns.

Mr. Hipolit said that anything ever done on the field was backed up with documentation and approved by the Governing Body.

☞ **Motion** to open the meeting to public comment on this topic only was **moved** by Councilman Hoffman, **seconded** by Councilwoman DiPaola and carried unanimously.

Steve Belloise, 105 Vivian Avenue stated that he had put together a factual timeline of the events that had taken place at the field. He reviewed the bid specifications, contracts, change orders, grading issues and the history of work done with Mr. Hipolit. He distributed the timeline to the Governing Body.

Peter Weiss, 158 Jordan Road asked Mr. Hipolit what services he was paid to provide to the Borough. Mr. Hipolit explained the scope of professional engineering services provided by Maser Consulting. Mr. Weiss inquired if the engineer oversaw contracted projects through with regular routine site visits by Maser and whether the visits were documented, outlining details that he thought were done incorrectly. Mr. Hipolit explained that the contractor was responsible for the method and use of construction in all cases. Councilman Hoffman noted that there were also monetary issues involved as far as what the Borough could do.

Jill Dunican, 19 Kensington Avenue asked Mr. Hipolit about the process of site evaluations. Mr. Hipolit explained the survey and design and grading processes as well as engineering, surveyor and contractor responsibilities. Mr. Hipolit also explained budget constraints that did allow for major reconstruction or soil remediation and well as the limitations of usage for grass fields. Mr. Boggia discussed the prudent use of Borough resources when deciding whether to litigate an issue, noting that in this instance, the collective wisdom was to resolve it. Council President Lazar expressed that there was more to this issue than money. If the Borough had decided to pursue litigation, the entire project would have been stopped and children would be the ones to suffer. He declared that they weighed their options and in the end had the kids' best interests at heart when they decided to go forego a costly lawsuit and proceed to fix the field. He said that the intent was to improve the field conditions for Borough children to play on. Mr. Hipolit concluded by noting that in New Jersey, municipalities are required to take the low bid.

Peter Weiss, 158 Jordan Road asked if the bidding process required the Borough to take the low bid regardless of the quality and reputation of the developer. Mr. Scarpa explained that the process was to get a fair price and how the law regarding prior negative experience. He added that they had not heard anything negative about JC Landscaping. Mr. Weiss asked for clarification on what happened if the contractor was not following the engineer's plans and whether there was anything the Borough or engineer could do about it other than litigation. Mr. Hipolit said that if the contractor does not listen to them, until they were done, they would not know if the plan would be the way it should be or not unless there was a public health or safety issue. Mr. Weiss asked for suggestions on what the Borough could do so that this type of situation did not reoccur. Mr. Hipolit said the only way to make that field the way they wanted was to use synthetic turf. If a contractor constructed a job improperly, they could not be pinned to the wall until the project was done. He added that the contractor ultimately had the responsibility to fix it and if they didn't, they had the responsibility to try to fix it or sue them to do it.

Brian Salas, 237 Pascack Avenue asked if a contract could be written with milestones in it so there were specific targets that the contractor had to meet before they were paid more. Mr. Hipolit explained that the more specific the contract, the more you had to pay because they would be subject to penalties. He said that most towns do not want to do that because of cost. Mr. Salas proposed using this method when they went out to bid to repair the field.

Councilman Rivers questioned Mr. Hipolit on the cost of artificial turf and whether his estimate of \$500,000 to \$750,000 was all inclusive. Mr. Hipolit explained that it depended on the type of turf field chosen, adding that it could go from \$3 to \$3 a square foot for the carpet itself and another \$3 to \$4 a square foot for the drain below it. For Emerson, he said that it would be a bit more because of current drain locations and that the cost could potentially reach the higher number because of the need to build up the field. Councilman Hoffman recalled that an estimate in 2006 was about \$800,000.

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

- Solid Waste/Recycling contract

Mr. Scarpa outlined the options that came in at the recent bid opening from different vendors. He detailed the summer option, with two weekly pickups in the summer and one the rest of the year or twice weekly pickup year-round. The different was \$9,700 per year. He noted the difference between the new proposals and what the Borough was paying now represented a savings of between \$126,000 to \$136,000 per year. Councilman Rivers opined that he would rather spend the \$10,000 to continue the twice weekly pickup year round. Councilman Hoffman stated that he was abstaining because this item was a budgetary issue for the next year and he would not be there. Councilman Browne mentioned that there would still be an additional \$10,000 savings if the borough went to once a week winter pickups and that should be considered in light of ongoing issues and potential costs associated with Hillman Field where that money might come in handy in the future. Council President said that the winter/summer schedule had been tried once but had received negative feedback from residents and wasn't worth the small amount of savings compared to the loss of service to residents.

☞ **Motion** to approve the Solid Waste/Recycling contract with a twice weekly schedule year round was **moved** by Councilman Rivers, **seconded** by Councilman Shaw and carried by roll call vote.

RC: Council members:

Browne-Yes

Rivers-Yes

DiPaola - Yes

Lazar-Yes

Hoffman-Abstain

Shaw-Yes

- Leasing of train station

Councilman Hoffman discussed the possibility of leasing the train station and wanted to move forward. He said that no one had expressed interest in renting the facility and the thought was to open it up to commuters and include historical exhibits of the town. Council President Lazar said that as liaison to the Historical Preservation Commission, they had discussed community use of the train station and there was a lot of interest in working out a deal with New Jersey Transit. He wanted to approach local businesses to see if any were interested in running a concession in the morning which he thought would be welcomed. At the same time the area could be used as a mini-community center with historical information of Emerson. Council President Lazar said that he and Councilman Hoffman would try to gauge interest in this idea and then approach NJT. Council President Lazar asked Mr. Scarpa to forward contact information for NJT so that they could follow up on this idea. There was confusion on how the venture could be profitable for the town, NJ Transit or a business owner if an element of Councilman Lazar's leverage for negotiations would include putting a cap on how much profit could be made by a leasee at the site. Councilwoman DiPaola considered the idea unfeasible from a small business perspective and based on her experience as a small business owner since it required specific hours of operation, and that coffee be served and other restrictions. Council President Lazar was resolute that it was a valid an opportunity and allow the Borough to apply leverage that would work to its favor in negotiations. Mr. Scarpa pointed out that the Borough did not have a real estate department, collection agency or maintenance department that would be dedicated to that building. Council President Lazar said that he and Councilman Hoffman wanted the opportunity to see if they could make it work.

- Creating the Hillman Field Advisory Committee

Councilman Rivers said that this topic was discussed at the last meeting and that Ms. Dray had emailed them indicating that it needed to be finalized. He wanted to make sure that it was done properly and that a committee was in place that had a term and overall objective. Mayor Lamatina suggested that Council President Lazar sit on the committee and identified the goals: to investigate what had occurred and to work out a solution. He said that consent was needed to establish the committee.

☞ **Motion** to affirm the creation of the Hillman Field Advisory Committee delegating Council President Lazar as the Chair for Mayor Lamatina and with the understanding for term ending December 31, 2010 unless created by ordinance at a future date.

Council President Lazar requested a point of order before being voted upon. Councilman Rivers suggested that the committee look to the future because there were currently only two fields managed by recreation. Councilman Shaw identified the goals to reconsider were pursuing liability and mediation. The Mayor listed Councilman Rivers, Council President Lazar, Marty Porcello, Peter Weiss, Tom Carlos, Tom Callagee, Bob Heinrich, Jill Dunican, Joe Scarpa and Joe Solimando as members of the committee. Councilman Hoffman maintained that there should be clarification on what the Committee was going back to do and he wanted to be clear before he voted. Council President Lazar said that he agreed with Councilmen Rivers and Shaw that the committee should look forward with the field and make it better. He added that it was best to look back at history when looking at the future as the committee's mission.

☞ **Motion** to progress forward with Hillman Field and make the field a better place now and in the future and to address general field availability was **moved** by Councilman Rivers, **seconded** by Councilman Shaw and carried by roll call vote.

RC: Council members:

Browne-Yes

Rivers-Yes

DiPaola - Yes

Lazar-Yes

Hoffman-Yes

Shaw-Yes

- Joan Martin Memorial

Councilman Hoffman stated that at the last meeting they had discussed doing something in memory of Joan Martin, former Chair of the Environmental Commission who recently passed away. He had spoken with Peter Martin who preferred using the triangular property on Lakeview Terrace presently owned by United Water as a natural area. He added that there would a loss of approximately \$500 in taxes to the Borough but that United Water was willing to give the property to them instead of selling it. Councilman Hoffman said that Mr. Martin suggested planting some wildflowers and it would be up to the Council whether they would want to place benches, a plaque or other options.

☞ **Motion** to authorize the Borough Administrator to speak with United Water to see if they were still willing to give the property to the Borough for the purpose of creating a memorial park in memory of Joan Martin was **moved** by Councilman Hoffman, **seconded** by Councilwoman DiPaola and carried by roll call vote.

RC: Council members:

Browne-Yes

Rivers-Yes

DiPaola - Yes

Lazar-Yes

Hoffman-Yes

Shaw-Yes

- Kinderkamack Road Project

Councilman Hoffman said that Council President Lazar had spoken with Mr. Scarpa regarding whether the change at the County level and the Republicans taking control of the Freeholder Board would still be committed to the Kinderkamack Road project. Mr. Scarpa sent an email on whether the County funding was in place. The Mayor said that he had sent an email to Brian Hague, the County Executive's Chief of Staff, and said that the Borough did have the shared services agreement; Mr. Hague responded to get a resolution from the Council to execute it and send it to the County. Members of the Governing Body said that they had not read it. Councilman Browne said it would be beneficial to get it codified as soon as possible since Emerson had incurred considerable expense and had bipartisan support of the process. Mayor Lamatina said that he would place it on the next agenda so that everyone could review it. Ms. Dray said that she would resend the contract.

VII. NEW BUSINESS

- Oritani - Sertino's Signs – Councilwoman DiPaola stated that she had not done the necessary backup due to illness and it would be prepared for the next meeting.
- Tobacco Ordinance – Mayor Lamatina stated that Sergeant Mazzeo requested that the Borough amend the ordinance.

Sergeant Mazzeo said that as the Juvenile Officer, parents approach him about underage smoking. He said that recently he has seen more and more kids, especially around the age of 13, smoking. The state statute only addresses purchasing cigarettes and does not cover the use of them. He added that smoking was the number one preventable cause of death in the United States. He explained that Hillsdale and Ridgewood each have an ordinance limiting the use of them and added that he was concerned about the issue as the Juvenile Officer and as a parent. He planned to update the ordinance prohibiting smoking in Emerson, but it would not cover private property which would keep the parks and public areas free from underage smoking. The Governing Body discussed the influence on younger children, enforcement issues and steps related to enforcement. The Governing Body consensus was to begin looking at the ordinance at the next meeting. Councilman Hoffman asked the Borough Attorney to review it as well. Councilman Rivers said he liked the idea of more steps because ultimately they may not be able to change behavior. He added that the simpler the ordinance could be made better. Council President Lazar commended Sergeant Mazzeo for the effort he put into this in the spirit of the children of the community.

- Request for written reports from Borough Professionals on Parking Issue at Emerson Grand at developer's expense – Councilman Browne said that at the last meeting, they had met with the property owner who wanted some parking accommodations. He said that the best way to review this was to get a report from the traffic officer and the traffic engineer. Council President Lazar referenced the turning radius needed by the Fire Department ladder truck. Mayor Lamatina suggested getting a quote from the engineer and discuss it with Mr. Germinario who had agreed to pay for it so as to have the it for the next meeting. Council President Lazar said that hopefully the report would be ready for the next meeting.
- Residential stop signs – Councilman Hoffman said that he had received a number of comments from people living in the Continental Woods area of town saying that a lot of streets did not have stop signs. He commented that traffic had increased and that a lot of people used the area as a cut through. He said that Sergeant Mottley was going to look into the issue. Council President Lazar said that the Police were going to put together a report about how many stop signs would be required in that area, estimating that 13 or 14 were needed to make the area safe. Councilman Hoffman stated that parents on Lakeview Drive wanted to know if the Borough could put in a crosswalk on Main Street due to safety issues at this location and requested that Sergeant Mottley look into that too.

- Utility Repair work on borough streets – Councilman Hoffman explained that he and Council President Lazar noticed that utilities have done work and repaved in town and that a lot of areas have developed depressions, creating issues for the Borough. He noted that some towns have ordinances to make sure that the maintenance was done properly. Council President Lazar said that these ordinances address a time frame for the person who does the work, making them responsible for that repair for 6 or 12 months. Ms. Dray stated that the current ordinance was grossly outdated and inadequate, adding that the Borough did not have a good inspection process after the road was opened. She said that she would distribute the information she had gathered a few years ago to the Governing Body.
- Request for Banner – Nichole Petruso-Panagopoulos for SSG. Salvatore B. Petruso – Councilman Hoffman said that they were looking for a hanging banner. Mr. Scarpa and Ms. Dray said that a resident had requested a hanging banner for a resident who was returning from active duty. Councilman Shaw said that it was clearly worthwhile and if she was able to obtain the banner, the Governing Body should agree to permit them to go up at one or two locations on Kinderkamack Road.

☞ **Motion** to approve one or two families to hand in two locations and ask the DPW to be so kind as to handle that was **moved** by Councilman Shaw, **seconded** by Councilman Rivers and carried by roll call vote.

RC: Council members:

Browne-Yes

Rivers-Yes

DiPaola - Yes

Lazar-Yes

Hoffman-Yes

Shaw-Yes

- Waiving permit fees for veterans/service members – Councilman Browne inquired about the process to amend the ordinance on the agenda for second reading to include veterans or active service members for permit exemptions. Councilman Hoffman asked how veterans would be defined and what length of time would be required to qualify. Mayor Lamatina also asked to see a draft ordinance and who it would include.

Councilman Browne also proposed providing property tax relief for active duty or serving veterans, allowing for a property tax rebate, credit or reduction if they have accumulated an aggregate of 45 days active service during a year. He explained that when a person served overseas they had stepped up to the call of duty to the country and it was better to offer something tangible to support a service member. Councilman Rivers asked what kind of economic impact this would have a tax standpoint in terms of current residents. Councilman Browne said that they would have to prepare a forecast of the number of service members in town, how many were deployed; he estimated that the impact would be minimal. He added that the IAVA offer the tax relief for a five year period to reduce the stressful situations that returning service members experience. Councilman Browne mentioned that several states also offer this benefit to surviving spouses. He said that after two very long wars, it was time to do something.

Mayor Lamatina stated that the Borough Attorney told him that there were already two existing statutes in place that addressed veterans and suggested that Councilman Browne speak with him about it. Councilman Browne said that he was aware of a state exemption for disabled veterans but that his suggestion would go beyond disabled veterans to people who had served in the military.

- Shade Tree Commission Alternates – Councilman Hoffman explained that currently there were no alternates on the Shade Tree Commission and was the last commission in the ordinance that did not provide for appointing alternates. He added that it was allowed by state statute and some members had suggested it as an opportunity to get a couple more people involved and provide for a quorum in case there were not enough members there. Mayor Lamatina suggested proposing something for the next meeting. Councilman Hoffman agreed and said that he would provide something to Ms. Dray with the same content as the state statute.
- Property Taxes - Active Duty Veterans

VIII. INTRODUCTION OF ORDINANCES

Second Reading and Public Hearing:

1416-10 AN ORDINANCE AMENDING THE CODE OF EMERSON CHAPTER 132 ENTITLED CONSTRUCTION CODES, UNIFORM § 132-3 ENTITLED FEES; § 3 D. WAIVER, EXEMPTION FROM FEES FOR DISABLED PERSONS

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

☞ **Motion** to adopt Ordinance #1416-10 on second reading was **moved** by Councilwoman DiPaola, **seconded** by Councilman Rivers and carried by roll call vote.

RC: Council members:

Browne-Yes
Rivers-Yes
DiPaola - Yes
Lazar-Yes
Hoffman-Yes
Shaw-Yes

1417-10 AN ORDINANCE AMENDING CHAPTER 163 OF THE EMERSON BOROUGH CODE ENTITLED 'HISTORIC PRESERVATION'

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

☞ **Motion** to adopt Ordinance #1417-10 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**
- DiPaola - Yes**
- Lazar-Yes**
- Hoffman-Yes**
- Shaw-Yes**

IX. REPORTS

- Mayor and Council
 - Councilman Browne said that he and Mr. Scarpa were ironing out the details for bus sheds. Also the website was moving along; he was going to ask for some input from Councilman Rivers on design layout. He added that GovOffice was still working on customizing photographs for the site.
 - Councilman Rivers had no report
 - Councilwoman DiPaola had no report
 - Council President Lazar said that he met with the **Historic Preservation Commission** where there was some interest in the train station. They were also moving forward with the historic designation of certain buildings and sites in town and identifying them with signs. He said that in Closed Session that evening, they were going to discuss Police personnel due to Police Chief Mike Saudino leaving the department to become the Bergen County Sheriff. He noted that he wished him the best and he would be missed by Emerson.
 - Councilman Hoffman echoed Council President Lazar's comments and added that Chief Saudino had done a fantastic job for the Borough of Emerson and would be sorely missed. He gave the October **Fire Department** report and said that the **Board of Health** was currently reviewing their fees to see if they were up to date and in line with state law.
 - Councilman Shaw had no report.
 - Mayor Lamatina reported that library bids had come in and appeared to be relatively reasonable and hoped that work would get done with their available funds. He also congratulated Chief Saudino on his election to Bergen County Sheriff and the other election victors and wished them best of luck.
- Borough Administrator Joe Scarpa stated that leaf bag distribution would end Friday. Also a sign was replaced at Hillman Field and a sign was placed at Sunset Park recognizing a local contractor for donating their cleaning and maintenance service. He also discussed the upcoming Christmas tree lighting

on Sunday, December 5th and holiday banner placement. The Police Department received a \$2000 software grant to map out the Borough. The Borough was also received an energy conservation grant for \$20,000 to finish the lighting projects that were not done in the Ambulance Corps and DPW buildings. He discussed the Best Practices Checklist sent by the Governor, saying that he contacted JIF to include ethics training in their liability seminars and discussed the law regarding absences from Council meetings. The background check practice had been set up with the Recreation Commission and 193 checks were to be done.

- Borough Clerk Carol Dray had no report
- Borough Attorney Phil Boggia had no report.

X. 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 Councilwoman Di Paola and carried at 10:00 p.m.

Seeing no 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 Council President Lazar, **seconded** by Councilman Rivers and carried.

XI. RESOLUTIONS ON CONSENT AGENDA NO. 211-10

☞ **Motion** to approve the Consent Agenda Resolution No. 211-10 with 218-10 done separately was **moved** by Councilman Rivers, **seconded** by Council President Lazar and carried by roll call vote.

RC: Council members:

Browne-Yes

Rivers-Yes

DiPaola-Yes

Lazar-Yes

Hoffman-Yes

Shaw-Yes

Ca 212-10 Approve Bill List

Ca 213-10 Approve Chapter 159 – Highway Safety Grant - NJS 40A:4-87 - in the sum of \$4,400

Ca 214-10 Approve Transfer of Funds

Ca 215-10 Approval of Mayor & Council regular meeting minutes – October 5, 2010

Ca 216-10 Approve Special Permit for Social Affair– Assumption Home School

- Association, March 12th, 2011
- Ca 217-10 Tax Appeal Adjustment – Block 215, Lot 9.01, 5 Groesbeck Court, for Total Assessed Value Reduction of \$139,500
- Ca 218-10 Approve Holiday Tree and Wreath Sales at Pascack Valley Shopping Center – VOTED ON SEPARATELY
- Ca 219-10 Resolution Requesting Approval of Items of Revenue & Appropriations NJSA 40A:4-87 - Drunk Driving Enforcement Fund Grant in the amount of \$3,038.13

☞ **Motion** to approve the Consent Agenda Resolution No. 218-10 was **moved** by Council President Lazar, **seconded** by Councilman Shaw and carried by roll call vote.

RC: Council members:

Browne-Yes
Rivers-Yes
DiPaola-Yes
Lazar-Yes
Hoffman-Abstain
Shaw-Yes

XII. CLOSED EXECUTIVE SESSION - Resolution No. 220-10

☞ **Motion** to go into an executive session to discuss matters exempt from the public as duly noticed by Resolution No. 220-10 was **moved** by Councilman Hoffman, **seconded** by Council President Lazar and carried by roll call vote.

RC: Council members:

Browne-Yes
Rivers-Yes
DiPaola-Yes
Lazar-Yes
Hoffman-Yes
Shaw-Yes

#10-11/09-22 Personnel – Police Department N.J.S.A. 10:4-8

XIII. RECONVENE

☞ **Motion** to reconvene was moved, seconded and carried.

XII. ADJOURNMENT

With no other business to address, at the request of the Mayor, Councilwoman DiPaola **moved** to adjourn the meeting, **seconded** by Councilman Rivers and carried at 10:02 p.m.

Carol Dray, RMC/CMC/CMR
(Proofed 12/17/10)

December 10, 2010