



MAYOR AND COUNCIL MINUTES
Tuesday, May 16, 2006
8:00 P.M.
BOROUGH HALL COUNCIL CHAMBERS
Municipal Place

This meeting was called to order at 8:11 pm. Captain David Hayes led the Salute to the Flag followed by a moment of silence.

Mayor Setteducati read the Open Public Meetings Statement announcing that the meeting was called pursuant to the provisions of the Open Public Meetings Law. This meeting of **May 16, 2006** was a re-scheduled meeting after publication of the Annual Meeting Notice. Notice of this meeting was faxed to the Bergen Record and Ridgewood News on March 15, 2006, posted on the bulletin board in the Municipal Building and has remained continuously posted as the required notices under the Statute. In addition, a copy of this notice is and has been available to the public and is on file in the Office of the Municipal Clerk of the Borough Hall.

ROLL CALL

Councilman Carlo Camporeale-Present
Councilwoman Carole Costantin-Present
Councilman Christopher Heyer-Present
Councilman Kenneth Hoffman-Present
Councilman Frank Milone, Jr.-Present
Council President Brian Todd-Present
Mayor Steven Setteducati-Present

Also present were Joseph Scarpa, Borough Administrator, Borough Clerk, Carol Dray, Borough Attorney, William Smith and Borough Auditor, Gary Higgins.

Approval of Minutes – 2/21/06, 3/7/06 & 3/28/06

Mayor Setteducati requested that the approval of the above captioned meetings be postponed until the next meeting due to changes still to be made to the March 7, 2006 and the fact that Mayor Setteducati had not read the minutes of March 28, 2006. No objection was made to the postponement.

VII. CORRESPONDENCE

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

#06-43 letter dated 5/1/06, re: 242 Palisade Ave., S. Berkoben
#06-44 letter dated 5/9/06, re: Parking on Union St., D. Pasqualino
#06-45 letters (2) dated 5/5/06, re: Hillman Park Improvements, County Executive D. McNerney

#06-46 letter dated 5/10/06, re: Property Maintenance, Y. Franco

#06-47 letter dated 5/16/06, re: State Aid Improvement, Ackerman Avenue Sections 3 & 4, Job & Job

VIII. PROCLAMATIONS AND PRESENTATIONS

Honoring Fire Department Member-Robert Pavese

Mayor Setteducati announced that, although Mr. Pavese was not present, he had been honored last week at a ceremony at the Fire House in recognition of his lengthy service to the borough by letter written to him by Mayor Setteducati and a proclamation in his honor.

Captain David Hayes Day

Mayor Setteducati introduced Emerson Police Captain David Hayes and remarked about his many achievements, both academic and in service as a police officer for over thirty years for the Borough of Emerson. A proclamation was read in recognition of his many academic degrees, including a Masters from Seton Hall University, and his long distinguished service in the Emerson Police Department.

Emerson Police Chief Saudino congratulated Captain Hayes and Captain Hayes thanked the Mayor and Council for the honor recollecting his motivation and inspiration for seeking higher educational pursuits.

IX. APPOINTMENT AND PERSONNEL CHANGES

None

X. OLD BUSINESS

1. Community Policing Account

Mayor Setteducati had recommended at the previous Mayor and Council meeting that the Community Police Trust Account be re-established as a 501C3. He strongly suggested that the account be frozen and encouraged Chief Saudino to incorporate the account as a 501C3 outside the borough's purview.

Councilman Camporeale questioned the borough auditor if the community police account audit was completed. Mr. Higgins replied that the field work was completed and they were in the process of finalizing the report and exhibits. He anticipated that the report would be done by the next meeting on June 13th. Councilman Camporeale maintained that until something was proven wrong with the handling of the account and since he had seen no indication of that thus far, he was opposed to freezing the account. Councilman Camporeale added that no vouchers would be approved between now and the next meeting and he did not anticipate any activity in the account. Councilman Todd concurred. Mayor Setteducati agreed with those terms as long as there was no activity in the account but commented that if an event should require expenditure out of that account he could not perceive the governing body holding up anything. Nevertheless, he was concerned with the apparent investigation of the US attorney's office and some of the expenditures. He hoped that the report would be completed in its entirety prior to the June 13th meeting, forwarded

to the governing body and, subsequently, to the Police Chief to be incorporated under a 501C3 to relieve the borough of any more responsibility.

XI. ORDINANCES-FIRST READING

ORDINANCE NO. 1306-06

AN ORDINANCE AMENDING THE ZONING CODE OF THE BOROUGH OF EMERSON TO CREATE AN OVERLAY ZONE ON BLOCK 702, LOTS 2, 6, & 7 WHICH ARE PRESENTLY LOCATED IN THE R-7.5 RESIDENTIAL ZONE, AND ADDING AS A PERMITTED USE IN THIS PORTION OF THE R-7.5 RESIDENTIAL ZONE A NURSING HOME USE

Mayor Setteducati described the proposed state of the art two-story nursing home designed to satisfy the concerns of the residents and clean up the landscape of the previously added buildings for a better fit into the neighborhood. Since the non-profit nursing home had been a burden on the borough's emergency services in the past, the Planning Board had written into the resolution that an annual contribution pro rated on the number of filled beds of up to \$100,000 would be collected annually.

Councilman Hoffman questioned the amount of parking spaces and the aesthetics. Mayor Setteducati replied that he thought the number of parking spaces would be 91 and the renderings of the proposed new facility, which are available, have a town house design.

Councilmen Camporeale was pleased with the Planning Board's resolution in regard to the matter of handling of deliveries as it had been a major concern of the Broad Street residents.

☞ **Motion** to approve Ordinance No. 1306-06 on introduction was moved by Councilman Camporeale, seconded by Councilman Heyer and carried on roll call vote of 5-0.

RC: Council members

Milone-yes

Costantin-yes

Camporeale-yes

Heyer-yes

Todd-yes

Hoffman-yes

Mayor Setteducati explained that the Planning Board would receive the introduced ordinance for review and present their recommendations to the Mayor and Council for final approval before the second reading and public hearing planned for June 13, 2006 at 8:00 p.m. in the Council Chambers of the Borough Hall, Municipal Pl., Emerson, N.J. Ordinance No. 1306-06 is on file in the Clerk's Office and posted on the official bulletin board of the Municipal Building.

XII. ORDINANCES-SECOND READING AND PUBLIC HEARING

None

XIII. FINANCIAL ACTION

Resolution No. 100-06 Waiver to Read in full

☛ **Motion** to approve Resolution No. 100-06 was moved by Councilman Camporeale, seconded by Councilman Milone and carried unanimously.

PUBLIC HEARING

Resolution No. 109-06 Adoption of the 2006 Municipal Budget

Motion to open the meeting for comments from the public in regard to the adoption of the 2006 Municipal Budget was moved by Councilman Camporeale, seconded by Councilwoman Costantin and carried unanimously.

Tom Fagan, 177 Colonial Road, questioned the purchase of a new vehicle for the Building Inspector. Councilman Camporeale explained that the purchase was prompted by the revenue generated from that department which by statute should not be a revenue generating department. The Council was advised to make the expenditure to utilize the increased monies collected as a result of improved enforcement and permit procedures; not necessarily because fees were increased. The current Building Department fees were in line with surrounding municipalities. Mayor Setteducati added that in prior years that department was a mess and had improved 2000% over the last three years. Mr. Fagan then questioned police overtime expenditures and the governing body's plan to reduce the overtime in order to get through the next seven months on \$36,000. Councilman Todd replied that they were monitoring it carefully. Mayor Setteducati agreed that the overtime was too high and was working vigorously to bring it in line. He added that the Council was communicating with the Police Chief on a daily basis asking for information with zero cooperation. Mayor Setteducati stated that he found it suspicious that all three officers on duty called in sick last Friday evening.

Jack Quigley, 182 Jordan Road, questioned the surplus and wondered what would be left by the zero tax increase. Mayor Setteducati replied that the surplus was \$1,832,701 and anticipated using \$1,533,000, which would leave a balance of \$299,701.

Mayor Setteducati gave a report of the bona-fide income generation back into surplus as:

- \$300,000 is unutilized for the 12/31/05 surplus
- \$400,000 annual deferred tax levy adjustment for 2007 that will be regenerated
- Estimated \$250,000 for reserved uncollected taxes
- Estimated \$175,000 in miscellaneous, unanticipated, and lapse revenue
- \$150,000 in added assessments
- \$100,000 Senior housing 1x infrastructure contribution
- \$45,000 senior housing construction fees
- \$225,000 Pascack Valley Shopping Center construction fees, conservative estimate
- \$250,000 Pascack Valley Project 1x infrastructure contribution

Mayor Setteducati further explained that those numbers did not include the added assessment for the Senior Housing or Pascack Valley Shopping Center Projects or the anticipated increased ratables from those projects. He was encouraged that those ratables would be greater than first speculated and revised the figure to a range of \$2 million from his original guess of \$1 million. He also anticipated significant revenue in the Building Department and Fire Inspections as a result of fully implemented procedures that he also did not include above. Mayor Setteducati was confident that they would achieve \$63,000 more than \$1,832,701 adding that the \$1,533,000 would be generated and then some.

Mr. Quigley wondered if Mayor Setteducati thought offering senior citizens a minor discount should be considered true senior housing. Mayor Setteducati chose not to quantify the question as it was not budget related.

Marcia DeSalvo, 3 Valleybrook Dr., was concerned with the police overtime amount and inquired how the borough would finance an over expenditure, if the amount should exceed what was budgeted for. Councilman Camporeale identified alternative means of funding but Mayor Setteducati thought that budget transfers could be used. Conceivably, in Mayor Setteducati's opinion, it would not pose a severe hardship given the amount in surplus.

Tom DeScisciolo, 64 Dyer Ave. questioned Mayor Setteducati if a ratable would be realized from the New Concept project. Mayor Setteducati replied in the negative and recalled the circumstances under which the property was acquired by the borough. Mr. DeScisciolo then inquired on the Armenian Home contribution and Mayor Setteducati explained that it would be an annual locked in contribution of up to \$100,000 dependent on bed capacity to offset the cost of the borough's emergency services frequent visits to the nursing home.

Chief Michael Saudino, Emerson Police Chief, discussed the police overtime budget and those of prior years. He denied that he had been difficult in regard to completing requests made by the Police Committee and was puzzled that since having met with Council members Todd and Costantin, he had thought that they had come to an understanding. Chief Saudino questioned Mayor Setteducati as to how he expected that the \$100,000-\$110,000 budgeted for overtime could be sustained with one less officer and took exception to the blame for what had been expended thus far when the budgeted amount had been \$170,000 the prior year. He added that \$110,000 was not a realistic number. He complained that the constant requests from the Police Committee were a distraction to his work and took offense at the innuendo that the three officers called in sick deliberately.

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

Mayor Setteducati remarked that after having spoken with Auditor Higgins and seeing the zero tax increase, he was confident that a tax decrease would be possible next year given that the additional ratables were not a part of this budget. He was pleased that the

school board tax increase was held to a 10 point increase and applauded the school board. He added that cultivating ratables was his number one goal and he was especially anticipating those from the revitalization; a component not even part of the budget as yet.

ADOPTION OF THE 2006 MUNICIPAL BUDGET

☞ **Motion** to adopt the 2006 Municipal Budget was moved by Councilman Camporeale, seconded by Councilwoman and carried unanimously by roll call vote.

RC: Council members

Milone-yes

Costantin-yes

Camporeale-yes

Heyer-yes

Todd-yes

Hoffman-yes

Mayor Setteducati thanked Auditor Higgins for all of his hard work and time he spent on the phone with him before leaving the meeting.

XIV. NEW BUSINESS

1. New information kiosk

Councilman Hoffman explained that Lori Charkey and Mark Becker had arranged for a new information kiosk at Emerson Woods to be built by Peter Welfel with lumber and materials donated by Kuiken Brothers at no cost to the town whatsoever. Councilman Hoffman asked that the Mayor and Council support this endeavor. There were no concerns or objection to the project by the governing body and Mayor Setteducati had expressed his grateful sentiments to Ms. Charkey for her efforts on the Borough's behalf. Councilman Hoffman would forward their approval to Ms. Charkey and Mr. Welfel so that the project could commence.

2. Boats in driveways

Mayor Setteducati had received a couple of emails in regard to large boats in driveways and would forward the emails to the appropriate liaisons for their review and consensus.

3. Education Incentive Pay under the PBA Agreement

Councilman Todd recommended that police officers who do receive education stipends should have documented proof verifying that they have earned a degree in the appropriated course work under the requirements of the Police Department. There was nothing the governing body had on file. Chief Saudino requested permission to comment and remarked that he had just that day received a memo with 48 hours to respond and it was his understanding that that the Finance Officer was aware of who was entitled to the stipend and signed off on the voucher; a procedure confirmed to Chief Saudino by former Police Chief Mazzeo. Chief Saudino further explained the procedure to the governing body adding that Captain Hayes was gathering the information that the Police Committee had requested.

4. Hiring a Police Dispatcher

The matter was moved to Closed Session.

5. Employee attendance at Conferences, Seminars Training and Certification Courses Procedure

Councilman Todd suggested that a process be in place to verify that all borough employees who attend conferences be approved by the Mayor and Council and that the courses be work-related. Mayor Setteducati added that there was a concern when there was a shortage of personnel because of attendance at a conference, such as when Chief Saudino and Sgt./Det Buono attended a conference for a week recently. Chief Saudino requested permission to comment and stated that within the police operational budget there was a line item for training and conferences as he had previously explained to Councilman Todd and it was never exceeded adding that part of the cost of that particular conference was paid for by the organizer. Chief Saudino continued by explaining that whenever any officer goes to school it never requires overtime expenditure and was always within the schedule guidelines. Mayor Setteducati and Councilman Todd's chief concern was overtime but if the Chief represented that attending conferences did not incur overtime he would take his word for it; although, he had understood that that had not been the case two weeks ago. Mayor Setteducati added that the policy was under review for all departments.

Councilman Hoffman inquired if the issue had been brought to the attention of the Police prior to that evening and Mayor Setteducati responded that they would like to change the whole borough policy since it was much more lenient than most others.

6. Police Chief Contract-Salary Comps

The matter was moved to closed session.

XV. REPORTS

1. Mayor and Council Reports

Councilman Costantin reported that the **Emerson Public Library Director** would be teaching Spanish for children and adults in the late afternoon or early evenings and more information would be available on the website. The **town historians** had posted photographs as a digital library on the website.

Councilman Camporeale gave the **Finance and Revenue** Report. He had met with the various **Recreation Departments** in regard to installing a turf field and anticipated that the process would take several months. The Commission would be kept informed of the progress of those meetings.

Councilman Heyer gave the **Emerson Volunteer Fire Department** report and the **Building Department** revenue generated this year compared to previous year's numbers in all categories. Mayor Setteducati remarked that he was in contact with the Construction Code Official daily with concerns and he was aware that Mr. Sartori was swamped with property maintenance issues. He reported that Mr. Sartori was working extremely hard; very knowledgeable in regard to ordinances and was good with people. Mayor Setteducati was pleased with his performance and progress both in technical terms and his personal side and congratulated Mr. Sartori on his performance in that department.

Councilman Todd gave the **Police Activity Report** for the month of April. Detective Mazzeo and the AAA Motor Club had recently presented a pedestrian safety program at Assumption School.

Councilman Hoffman reported that the **Shade Tree Commission** had held their annual **Arbor Day** ceremony on April 29th by planting a Weeping Cherry tree on the Borough Hall

grounds and thanked Councilpersons Heyer, Costantin and Environmental Commission Chairperson Bob Belli for attending the event. He and Mr. Wagner had attended a 57th year State Arbor Day Ceremony at Paramus High School and received a **Tree City Plaque** and banner and would be receiving two street signs also.

Mayor Setteducati reported the **senior housing project** had begun and the **Pascack Valley Shopping Center** had begun to renovate the Firestone and was installing a fence around the whole property. There was no contamination under the Firestone Dealership, which would be the new Washington Mutual Bank; and Mayor Setteducati remarked that it was unfortunate that one ridiculous rumor after another continued to be circulated in regard to the project.

Mayor Setteducati anticipated that the public hearing would be scheduled for the **Redevelopment** ordinance prior to adoption at the next meeting and shortly thereafter the soliciting of proposals from various property and business owners would begin.

2. Office of the Borough Administrator

Mr. Scarpa reported that:

- He submitted required Annual tonnage report and the tonnage amounts had increased from last year bucking the state wide residential recycling trend
- The Chestnut Ave resurfacing would begin in the next week or two and the Ackerman Avenue project would go out to bid shortly to be started in the summer
- The signs were installed at the Library
- Work had begun to update computers to proceed with online tax payments
- The oil tank removal was proceeding in the DPW yard
- The Sidewalk Safety program would begin next week
- The DPW would be placing the flags by the Veteran's Memorial representing the various branches of the military

Councilman Hoffman inquired if the next borough newsletter would be available soon and Mayor Setteducati replied yes.

3. Office of the Municipal Clerk had no report at that time.
4. Borough Attorney had nothing to report in open session.

XVI. PUBLIC COMMENT

*In the interest of time, speakers are limited to **five (5) minutes**. Speakers with prepared statement should provide **eight (8) copies** for the Council*

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

1306-06 AN ORDINANCE AMENDING THE ZONING CODE OF THE BOROUGH OF EMERSON TO CREATE AN OVERLAY ZONE ON BLOCK 702, LOTS 2, 6, & 7 WHICH ARE PRESENTLY LOCATED IN THE R-7.5 RESIDENTIAL ZONE, AND ADDING AS A PERMITTED USE IN THIS PORTION OF THE R-7.5 RESIDENTIAL ZONE A NURSING HOME USE

Councilman Camporeale **moved** to open the meeting for comments from the public, seconded by Councilman Todd and carried unanimously.

Gary Schwinder, 99 Linden Avenue, commented about the condition of borough-wide curbs and was advised by Mr. Scarpa that the curbs and sidewalks are the homeowner's responsibility.

Jack Quigley, 182 Jordan Road, wondered if Mayor Setteducati truly considered the project on Kinderkamack Road senior housing in the true sense of the word and Mayor Setteducati replied that he did and also considered the 20% discount substantial. Mayor Setteducati added that there was an open line communication between the developer and any senior needing additional information. Mr. Quigley next asked how much the taxpayers had paid for the Fisher Report and if the information within the report had been implemented. It was determined that \$10,000 had been appropriated for the report and according to Mayor Setteducati and Councilman Todd some of the aspects of the report had been implemented along with the agreement to change to a new 12 hour shift work week with 4, four man crews. Mayor Setteducati continued by stating that even though it was agreed upon that the schedule would consist of four, (4) man crews once the schedule was implemented another level of brass was created when platoon leaders were assigned to 3 crews of three and only 1 crew of four which would have put the council into the position of hiring three more police officers.

Chief Michael Saudino, Emerson Police Department, considered the Mayor's statement from the context of the Fisher Report as inaccurate and corrected it by identifying it as 'lack of supervision with the current schedule.' Mayor Setteducati disagreed stating that Mr. Fisher had told him that personally what he had stated. Mayor Setteducati and Chief Saudino engaged in a debate over what was actually meant and said by Dr. Fisher. Chief Saudino also clarified a previous statement made by him in regard to the questioning of conference attendance and wanted it understood that mandated training, not to be confused from elective training, was excluded and did at times require overtime usage. Chief Saudino stated that he was not looking to negotiate his contract for next year as his current contract expired on 12/31 of this year. He went to see an attorney because his current contract had been violated this year. He posed the question to Mayor Setteducati if the Police Department had received a \$4,000 increase for the change in health benefits and Mayor Setteducati replied that as management he was not included in the bargaining unit contract. Mayor Setteducati explained his problem was that the Police Chief was one of the highest compensated Police Chiefs in New Jersey. Chief Saudino disagreed and advised him to research the Old Tappan Police Chief's salary.

Tom Fagan, 177 Colonial Dr., requested an update on the Kalyoussef litigation from Mayor Setteducati since the Mayor had not known the answer when he had last asked the question at a prior meeting and Mayor Setteducati deferred the question to the Borough Attorney for a response. Mr. Fagan refused to receive the answer directly from the legal counsel and Mr. Smith advised him that he had no choice. Mr. Fagan remarked that he did not like Mr. Smith and refused to be addressed by him demanding that the Mayor answer him instead. Mayor Setteducati replied that he had offered Mr. Fagan a solution; and if he was not listening to the answer or agreed to be addressed by legal counsel, he should go on to his next question or sit down. Mr. Fagan refused and Mayor Setteducati called for assistance from the Police Chief to remove Mr. Fagan from the podium. Chief Saudino replied that he was awaiting the arrival of a uniformed police officer. Mayor Setteducati implored Mr. Fagan to sit down but he refused to move away from the podium. Mayor Setteducati asked the Police Chief to approach the dais and directed him to have a police officer escort Mr. Fagan from the Council Chambers. Councilman Camporeale interjected that since the governing body had not had an opportunity to discuss the outcome of the Kalyoussef litigation; it was not a public document nor should it be discussed publicly at that time. A few minutes later, Sgt. Clark escorted Mr. Fagan from the Council Chambers.

Michael Budres, 93 Pascack Ave., commented on the FDIC training in Indianapolis and requested that the governing body meet the volunteers at least half way for their training fees.

☞ Seeing no more hands, Councilman Camporeale **moved** to close the meeting for comments from the public, seconded by Councilwoman Costantin and carried unanimously.

XVII. CONSENT AGENDA-Resolution No. 101-06

Resolution Nos. 107-06 was pulled.

☞ **Motion** to approve the Consent Agenda without Resolution No. 101-06 was moved by Councilman Camporeale, seconded by Councilman Hoffman and approved unanimously by roll call vote.

RC: Council members

Milone-yes

Costantin-yes

Camporeale-yes

Heyer-yes

Todd-yes

Hoffman-yes

Ca102-06 Approve Bill List

Ca103-06 Approve Investments

Ca103A-06 Approve Investments

Ca104-06 Approve Click It or Ticket Mobilization

Ca105-06 Amending a Previous Resolution Transfers within the 2005
Budget Appropriation

Ca106-06 Approve the acceptance of \$10,000 from the Municipal Excess Liability Insurance Fund for release of their liability in regard to Kalyoussef v. Borough of Emerson

Ca107-06 Authorize the hiring of a Police Dispatcher-**PULLED**

XVIII. CLOSED SESSION RESOLUTION No. 108-06

Motion to close for an executive session to discuss matters exempt from the public as duly noticed by Resolution No. 108-06 was moved by Councilman Camporeale, seconded by Councilman Heyer and carried unanimously

#06-5/16-20 Personnel-DPW

#06-5/16-21 Potential Litigation-Police Chief's request for \$4,000 raise and contract renewal

XIX. RECONVENE

Motion to reconvene was moved, seconded by Councilman Milone, and carried unanimously.

XX. CLOSED SESSION ACTIONS

1. DPW Seasonal Help-AO12-06

Motion to hire Bradley Dussault, Richard Rodriguez and James Davis as temporary full time summer help for the DPW with their wages set forth in the DPW contract was moved by Councilwoman Costantin, seconded by Councilman Camporeale, and approved unanimously by roll call vote.

RC: Council members

- Milone-yes
- Costantin-yes
- Camporeale-yes
- Heyer-yes
- Todd-yes
- Hoffman-yes

2. Kalyoussef Appeal

Motion to not appeal Judge Doyne's decision in regard to Daniel Kalyoussef in the likelihood that the cost of the lawsuit would exceed the benefit of winning was moved by Councilman Camporeale, seconded by Councilman Heyer, and approved unanimously by roll call vote.

RC: Council members

- Milone-yes
- Costantin-yes
- Camporeale-yes
- Heyer-yes
- Todd-yes
- Hoffman-yes

XXI. ADJOURNMENT

☛ With no more business to discuss, **motion** to close was moved by Councilwoman Costantin, seconded by Councilman Camporeale, and carried unanimously at 10:40 p.m.

Carol Dray, RMC

August 29, 2006