

MINUTES
BOROUGH OF EMERSON
MAYOR AND COUNCIL
Regular Meeting
Executive Session (Closed)
Tuesday, February 21, 2006
8:00 PM Regular Meeting
Council Chambers-Borough Hall
Municipal Pl.
EMERSON, NEW JERSEY 07630

This meeting was called to order at 8:04 pm. Doug McKendry 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 **February 21, 2006** was included in a list of meeting notices sent to the Bergen Record and Ridgewood News on December 15, 2005 and advertised in said newspapers on December 17th & December 23, 2005; respectively, posted on the bulletin board in the Municipal Building on December 17, 2005 and has remained continuously posted as the required notices under the Statute. In addition, a copy of this notice has been available to the public and is on file in the Office of the Municipal Clerk of the Borough Hall.

ROLL CALL OF MAYOR AND COUNCIL

Councilman Carlo Camporeale-Present
Councilwoman Carole Costantin-Present
Councilman Christopher Heyer-Arrived at 8:17 p.m.
Councilman Kenneth Hoffman- Present
Councilman Frank Milone-Present
Council President Brian Todd-Present
Mayor Steven Setteducati-Present

Also present were Borough Clerk, Carol Dray, Borough Administrator, Joseph Scarpa, and Gordon Meyer for William Smith, Borough Attorney.

APPROVAL OF MINUTES

☞ **Motion** to approve the minutes of the **Budget Meeting of January 31, 2006** was moved by Councilman Camporeale, seconded by Councilwoman Costantin and carried unanimously.

CORRESPONDENCE

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

#06-14 letter dated 2/7/06; re: Hackensack Golf Club

#06-15 letter dated 2/8/06; re: Hackensack Golf Club

#06-16 letter dated 2/14/06, re: Road Hazard, E. Krause

#06-17 letter dated 2/15/06, re: Storm water Control Ordinance, Job & Job

#06-18 letter dated 2/15/06, re: Ackerman Avenue Sections 3 & 4, Job & Job

#06-17 letter dated 2/17/06, re: BCUA Sewer Connection Fee, L. Kaiser

PROCLAMATIONS & PRESENTATIONS

Councilman Hoffman read the Tree City Proclamation as part of the borough's requirements for Tree City Status. Arbor Day is observed on Friday, April 28th.

APPOINTMENTS AND PERSONNEL CHANGES

1. Library Board Trustee:

☞ **Motion** to confirm the appointment of Timothy Ferner as a Library Board Trustee for the term ending 12/08 effective immediately was moved by Councilwoman Costantin, seconded by Councilman Milone and carried unanimously.

2. Emerson Volunteer Fire Department

☞ **Motion** to confirm the appointment of William J. Block III as a member of the Emerson Volunteer Ambulance Corps effective immediately was moved by Councilman Camporeale, seconded by Councilman Milone and carried unanimously.

3. Recreation Commission

a) Cathy Hornyak–Alternate I for the term ending 12/06

b) Beverly Doughty-Alternate II for the term ending 12/07

c) Marty Porcello Regular Member for the term ending 12/11

☞ **Motion** to confirm the above-captioned appointments to the Recreation Commission was moved by Councilman Camporeale, seconded by Councilman Todd and carried unanimously.

UNFINISHED BUSINESS:

1. **ORDINANCES**

b) 2nd Reading-Public Hearing and Adoption

ORDINANCE NO 1301-06

AN ORDINANCE TO AMEND THE CODE OF EMERSON CHAPTER 77 THEREOF, TITLED POLICE DEPARTMENT TO AMEND ARTICLE TWO ENTITLED OUTSIDE EMPLOYMENT, SECTION §77-16 THEREOF, ENTITLED ACCOUNTING OF HOURS; PAYMENT OF HOURS PROVIDING FOR HOURLY FEE FOR PRIVATE EMPLOYMENT OF POLICE OFFICERS

☞ Councilman Camporeale **moved** to open the meeting for public comment on this ordinance only, seconded by Council President Todd and carried.

☞ Seeing no other hands, Councilman Camporeale **moved** to close the meeting for public comment, seconded by Councilman Hoffman and carried.

☞ **Motion** to adopt Ordinance #1301-06 was **moved** by Council President Todd, seconded by Councilwoman Costantin and carried by roll call vote.

RC: Council members:

Milone-yes

Costantin-yes

Camporeale-yes

Heyer-absent

Todd-yes

Hoffman-yes

Mayor Setteducati announced that Ordinance No. 1301-06 was duly adopted by a vote of 5-0.

NEW BUSINESS:

MAYOR AND COUNCIL REPORTS

Councilman Milone reported that an issue in regard to the Meals Program in the school system had been resolved.

Councilperson Costantin gave the **Building Department** activity report for the month of January.

Councilman Camporeale gave the **Finance and Revenue** report for the month ending January 31. A summer basketball league was under consideration by the Recreation Commission.

Councilman Heyer was not present.

Council President Todd was in possession of the **Emerson Police Activity** report but had some questions in regard to it and would postpone the report until a later date.

Councilman Hoffman had no report.

Mayor Setteducati reported that the **Planning Board** had reviewed the Armenian Home application and would be making recommendations to Mayor and Council. The project would require a zoning change. The Redevelopment Plan would be heard on March 16th and would provide plenty of opportunities for existing businesses. Mayor Setteducati anticipated that it would make Emerson the finest downtown in Bergen County while increasing ratables easing the tax burden for the taxpayers.

Administrator's Report

Mr. Scarpa reported:

- The Community Development Library upgrade was completed and the final inspection was scheduled for Thursday.
- The pavilion Community Development application was deemed ineligible but the borough did receive a CD grant for \$22,401.90 for a barrier-free bathroom upgrade in the borough hall.
- Mr. Job had forwarded the Storm Water Management Plan for adoption and implementation and the Council should receive comments from the Planning Board in order to introduce the ordinance at the next meeting.
- The Chestnut Ave. Road Improvement bids were rejected and would need re-bidding. The resolution was on Consent. Mr. Scarpa suggested bidding road projects with neighboring municipalities if there was no objection to secure greater cost saving and efficiency measures.
- The state was proposing a \$3.00 a ton garbage tax that supposedly would be returned to towns at some point but Mr. Scarpa suggested drafting a resolution opposing it. The bill would also require Recycling Coordinators to be certified.

The **Borough Clerk** had not report.
The **Borough Attorney** had no report in open session.

PUBLIC COMMENT

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.

Mayor Setteducati requested that everyone maintain the proper decorum without any speaking out of turn so that everyone would have a chance to be heard.

☞ Councilman Heyer **moved** to open the meeting for comments from the public, seconded by Council President Todd and carried unanimously.

Michael Saudino, Chief of Police Emerson Police Department, read from a statement identifying the chain of events culminating in the recent layoff of the 19th police officer, his objection to the handling of that matter and the subsequent consequences of the action to the budget and manpower coverage in the Police Department. Chief Saudino also read excerpts from the Fisher Report to affirm his negative opinion of the action taken by the Council terminating a police officer and the impact it would have on the police department especially overtime. Chief Saudino further stated that during a phone conversation he had had with Mr. Fischer within the last few days, Mr. Fischer stood by his report to the Mayor and Council that: 'the best schedule for the Emerson Police Department to best serve their community was a 12 hour shift consisting of a twenty man department.' Chief Saudino recited a time line of events from the vote to hire the twentieth officer in November 2005 to the action of laying off Officer Kalyoussef on February 7th which had, to date, resulted in overtime expenses of \$4,100. He was opposed to the decision without his input and that there had only been a two day notice. In addition, he stood by the accuracy of his statements and figures he had presented with an open invitation for further explanation for any interested parties. Chief Saudino hoped communication would improve between him and the governing body and that the Council would reconsider their decision to terminate Officer Kalyoussef.

Councilman Hoffman was curious about a memo from Chief Saudino in regard to a reimbursement of expenses he had requested but had not yet received. Councilman Hoffman requested that it be added to the Closed Session discussion.

Jack Quigley, 183 Jordan Rd., congratulated the governing body on their efforts in regard to the Redevelopment and urged them to listen to the people once again.

Donald Rossi, 236 Randolph Ave., Emerson Police Lieutenant and resident, stated that he had been instructed by Chief Saudino to prepare an audit of the effect of PO Kalyoussef's dismissal on the police schedule and its financial impact on overtime within the Police Department. He reported that he and Captain Hayes had determined that P.O. Kalyoussef's loss would cost the taxpayers of Emerson, at the minimum, an additional \$155,541.50 in overtime costs. The signed audit was presented to the Mayor and Council.

Joseph Kalyoussef, father of Officer Kalyoussef, understood the governing body's concern with the budget but wanted to know why his son was voted to be dismissed with only two days notice and wondered if it was a case of a personal conflict between the Council and the Police Chief.

Nick Michaels, 200 Jordan Rd., Emerson, requested the actual figure of the budget shortcoming and Mayor Setteducati explained the number was a moving target, and that the budget continued to be a work in progress. It was explained to him that the money not used, the surplus, was regenerated into the next year's budget. Mayor Setteducati explained to Mr. Michaels the limitation of the CAP and its impact on the municipal budget. Mr. Michaels questioned why a police officer was fired as opposed to taking other creative measures to reduce the budget as suggested by Councilman Heyer. Councilman Todd stated that the borough auditor had recommended making cuts sooner than later and assured Mr. Michaels that further cuts were being made in other departments and the department heads would continue to be in on the process. Mayor Setteducati outlined the impact of a 51.5% increase in the police budget over the last 5 years, the single largest line item of the budget, and Chief Saudino's continued request to increase his staff including a secretary. Mayor Setteducati also commented on Chief Saudino's 15.5% budget increase request this year. Councilman Camporeale explained the CAP waiver process to Mr. Michaels and the governing body's efforts to reduce the number before seeking the waiver down in Trenton and that the CAP number was a percentage from a mathematical equation based on last year's budget. Mayor Setteducati added he had been very critical of the 2.5% CAP when PBA bargaining units are receiving 4% plus salary increases and had requested that a resolution be drafted in opposition of it at the last meeting. Mr. Michael's wondered how long the hiring process took for a police officer and Mayor Setteducati answered that it depended on many things.

Michael Graham, 132 Lozier Ave., asked Councilpersons Costantin, Milone and Todd if they had reviewed Dr. Fischer's report before voting in favor of Officer Kalyoussef's termination. Councilman Todd replied the Council was notified at the meeting; however, he had been discussing the problems in the police department via emails up to the meeting. Councilman Hoffman stated Council President Todd did send an e-mail message to him prior to the meeting in regard to his feelings reducing the police department by one person but was unaware that a motion would be made by Council President Todd at the meeting to that effect until it was made. Mr. Graham criticized Councilwoman Costantin for not returning his call. Councilwoman Costantin explained to Mr. Graham that his phone call to her while she was out of town and unavailable was

returned by Council President Todd for courtesy and priority sake and felt that that been a sufficient response.

Joseph Kalyoussef wondered if the Armenian Home would be sold. Mayor Setteducati replied that if it became an operation for profit it would be taxed accordingly. The new facility would be easy on the eyes and the Armenian Home had discussed offering a contribution on an ongoing basis to go towards emergency services. It would not change the status towards tax-exempt. Mr. Kalyoussef remarked if it was the Council's intention to rehire, from what he had read, after higher level senior officers retired, because, in his opinion, it was unfair to indirectly force people to retire. Mayor Setteducati responded that is what he anticipated the Council would do, and according to Mr. Fisher's report, the department was brass heavy and the new schedule revealed that the department could function with one fewer officer. Mayor Setteducati added that the Police Chief had told him when he first took office that there were employees in the department who he anticipated would retire shortly. Mr. Kalyoussef questioned the salary scale of DPW employees and Mayor Setteducati replied DPW employees top out at about \$55,000 and make substantially less than a police officer.

Michael McDermott, Emerson Police Officer and President of the PBA Local 206, corrected some alleged misinformation that had been written in the newspaper about the contract settlement and the figures in regard to health benefits savings. In addition, Mr. McDermott remarked that the PBA had not received the appeal in regard to Officer Kalyoussef's salary grievance and the arbitrator's decision despite action taken by the Council to do so. He announced that a complaint had been filed in the Superior Court of five state statutes that the Council had allegedly violated in regard to former Police Officer Kalyoussef's termination.

Anthony Loffredo, 187 Park Ave., questioned if the Council would be considering the overtime costs calculations prepared by Lt. Rossi as a result of laying Officer Kalyoussef, the contract agreement settlement insurance costs and the affect of both on the budget. Councilman Camporeale interjected that the insurance costs did go up this year but would have been higher if the contract had not been settled. Mayor Setteducati questioned Mr. Loffredo's perception of the 12 hour schedule as recommended by Mr. Fischer's report; specifically, that the lieutenants would act as platoon leaders supervising four squads of four officers including themselves. Mr. Loffredo agreed but that changes were made when the twentieth officer was not hired. Mr. Loffredo understood that relative to the CAP, another officer would have been a challenge to the budget, but Mr. Loffredo was concerned that the 12 hour shift could not now be reliably evaluated, and the burden of increased overtime expenditures on the budget. In his opinion, since the health insurance costs were outside the CAP, a good argument could be made down in Trenton for CAP relief.

Chief Saudino, thanked former Councilman Loffredo, and agreed that the 12 shift schedule was an alteration of Mr. Fischer's recommendation but Mr. Fischer's 12 hour schedule was structured with a force of twenty officers. He maintained that the schedule would have been structured exactly as Mr. Fischer had recommended if the borough had

hired the twentieth officer but instead he was given just days notice prior to January 1st that the borough would not be hiring the twentieth officer. Councilman Todd questioned whether the alternate schedule had ever been discussed and a debate ensued as to when and why the Chief altered the schedule without consulting anyone. Chief Saudino maintained that the Council should put their faith in him as the department head since he had done things in the best interest of the borough and considered himself one of the best police chief in the County. He also added that Mayor Setteducati had gotten every report that had been requested of him except for information that was personal or confidential and he was not entitled to have. Other than that, he maintained, the Mayor, Councilman Todd or the Borough attorney, had gotten every report they had requested. Mayor Setteducati disagreed clarifying that the reports they had been requesting were detective reports necessary for evaluating the detective bureau and, although the Police Committee was now receiving them; the reports lacked the detail needed to properly assess the time spent on the investigations. Councilman Todd had several questions in regard to those detective reports since specific details were not included making it difficult to evaluate the work load. Chief Saudino stated that some of the statistics they requested could not be provided simply because the information was not documented.

Doug McKendry, 126 Longview Dr., was concerned about the process of balancing the budget as a taxpayer and police protection and harmony in the borough. He asked Councilpersons Todd and Costantin if they had consulted with the Chief prior to the decision to lay off the officer. Councilman Todd stated they had met with Chief Saudino in January to discuss not hiring the twentieth officer and what was going on with the schedule but no agreement was made. They did not directly consult with the Police Chief in regard to terminating Officer Kalyoussef. Mr. McKendry was embarrassed by the conflict between the police department and the governing body, was proud of the police department but did not want his taxes to raise and suggested that the governing body demonstrate genuine collaboration by rehiring the police officer and by forming a commission in vigorous pursuit of evaluating cost saving measures while providing the same police services. Mayor Setteducati responded that it would be impossible to knock down the numbers because the borough was loaded with salaries. He added that the Police Committee had met with the Chief and discussed the budget line item by line item but that the governing body's hands were tied by the CAP ordinance.

Michael Hogan, 898 Washington Ave., Twp of Washington, disagreed with Mr. McKendry's opinion that the conflict with the police was embarrassing. Mr. Hogan stated that democracy was a messy business but preferable over fascism proclaiming Emerson the 'Athens of Bergen County.' Mr. McKendry took offense to Mr. Hogan's use of the word 'fascism' in reference to his previous comments and a brief scuffle took place between the two gentlemen. It was quickly broken up by an Emerson police officer.

April Guarino, 50 Ross Ave., referenced a newspaper article quoting Mayor Setteducati in regard to senior citizens feelings on cost saving measures, accused Mayor Setteducati of railroading the residents and was opposed to the laying off of a police officer.

Mary Ann Setteducati, 263 Spruce St., commented that the cost of everything is going up and the people who will complain about rising costs are also the same people that want the cost of what they are earning to stay the same urging humbleness and resolve. Ms. Setteducati's comments were met with some public outbursts that required the Mayor Setteducati to call for order.

Joseph Kalyoussef remarked that he was discouraged to see that the governing body terminated his son without proper notice and misspelled his name to boot. He urged the governing body to remain humble instead of getting even for the sake of the community.

Michael Galasso, 1 Daned Rd., commented that Chief Saudino was the best chief he had ever served under and in order to save money the governing body would have to spend money.

Jack Fisher, 3 Marianna Pl., was in support of rehiring the police officer.

Adrian (inaudible), member of the Westwood Police Department, predicted that the laying off of the police officer would increase overtime.

Helen DeScisciolo, 64 Dyer Ave., was in support of a referendum to decide the matter to take the heat off Mayor Setteducati.

Motion to close the meeting for comments from the public was moved by Councilman Hoffman, seconded by Councilman Todd and carried unanimously.

Mayor Setteducati addressed some of concerns made by the various speakers during public comment while Council President Todd distributed an analytical police budget document to everyone on the dais and in the audience. Mayor Setteducati explained that the cutbacks to the police budget and the laying off of the police officer were due to the balancing act between protecting the needs of the community and the taxpayer and had nothing to do with the Chief and himself. Mayor Setteducati stated that he was against the 12 hour work shift because it had not been studied properly, should have been used as give back from the PBA and had felt that the two year trial period was too long. Mayor Setteducati had personally contacted former Officer Kalyoussef with the offer that if the position should become open again sometime in the future he hoped that the former officer would apply. Mayor Setteducati strongly denied that the laying off of the police officer was in retribution to the Police Chief. He respectfully disagreed that the borough had violated any rights of the police officer as alleged by Officer McDermott. Mayor Setteducati explained the background of the grievance filed by the PBA on behalf of Mr. Kalyoussef's dispute over his starting salary when Officer Alasio began speaking out of turn commenting on remarks made by Mayor Setteducati in regard to his initial hiring salary. Councilman Camporeale assured Officer Alasio that his concern would be taken care of but, despite the reminder that the public comment portion of the meeting had ended, Officer Alasio continued speaking out of turn warning the Mayor Setteducati that he was not speaking to him.

Mayor Setteducati resumed by identifying issues that had led to the conflict that now existed by the fact of the swift rise of a patrol officer's salary, the meetings when the 12 hour shift was discussed and the intimidation factor, and traffic tickets recently issued to Councilpersons who voted to lay off the police officer. Chief Saudino objected to any discussion of those tickets since the meeting was not a court of law and the matter could turn into pending litigation. Mayor Setteducati disagreed that the Police Chief's input was not considered since Chief Saudino's opinion of an additional officer was well-known to the Police Committee. At that point, Councilman Hoffman posed the question as to why Chief Saudino was not asked to participate in the Closed Session meeting when the laying off of former Police Officer Kalyoussef was discussed so that both sides could be heard. Councilman Todd responded with a question to Councilman Hoffman as to why he, and for that matter, no other councilpersons questioned the procedure that evening. Councilman Camporeale took exception to that question and responded that the matter was brought up and the Council heard it for the first time at that meeting despite that the Police Committee was obligated, as the proper authority, to keep the Council informed. However, Councilman Camporeale claimed that they did not meet that obligation, there was a closed session meeting, the Council got into an argument and the vote went the other way. In disagreement to what had just been remarked, Councilman Camporeale recalled that both Councilpersons Todd and Costantin responded earlier in the evening that Chief Saudino was never notified about the intention to terminate the police officer prior to the action taken by the governing body. Councilman Hoffman referred to another incident that the Police Committee had left the Council out of the loop on. Mayor Setteducati stated that it had been the opinion of the Police Committee that the termination had to be done for fiscal responsibility and lack of need when the change to how the 12 hour shift schedule was being administered took place.

Councilman Todd explained the organizational chart of the Police Department page by page for the benefit of the public and the how the 12 hour shift was administered with the platoon leader concept as opposed to how it had been understood by the Council when it was voted upon.

Chief Saudino was in objection to the materials that had been handed out after the close of public comment since his ability to comment on what he described as "propaganda" had been eliminated. Mayor Setteducati granted him the opportunity for a rebuttal if, in turn, the Chief would return the favor without interruption pending the Chief's comments.

Chief Saudino and Councilman Todd participated in a debate between the literal translations of Dr. Fisher's words each quoting and reference the report prepared by him. No agreement was met as to what had been the true motivation to changing to a 12 hour work schedule or what defined "unity of command".

CONSENT AGENDA-Resolution No. 54-06

☞ **Motion** to approve Resolution No. 54-06, Consent Agenda, was moved by Councilman Todd, seconded by Councilman Todd and carried by roll call vote.

RC: Council members

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

- ca55-06 Approve Bill List
- ca56-06 Approve Transfer within the Municipal Budget
- ca57-06 Approve Investments
- ca58-06 Amending the 2006 Temporary Budget
- ca59-06 Approve the Rejection of bids for the improvement of Chestnut Avenue and authorize the Borough Engineer to re-bid the project
- ca60-06 Approve request for extension of time for the improvement project Ackerman Avenue from the New Jersey Department of Transportation
- ca61-06 Approve the Endorsement of Community Development Funding for a barrier-free toilet room improvement in the Borough Hall

CLOSED SESSION-Resolution No. 62-06

☞ **Motion** to close for an executive session to discuss matters exempt from the public as duly noticed by Resolution No. 62-06 was moved by Councilwoman Costantin, seconded by Councilman Milone and carried unanimously

- 06-02/21-06 Building Department
- 06-02/21-07 Cleaning Service

RECONVENE TO OPEN SESSION

☞ **Motion** to reconvene was moved by Councilwoman Costantin, seconded by Councilman Milone and approved unanimously.

Terminating cleaning contract with Control and Hiring Winnett

☞ **Motion** to terminate the contract that allowed a three month opt out clause with Control based on several unresolved continuing cleaning deficiencies and to hire the next lowest bidder, Winnett’s Cleaning Service, to assume the cleaning services for the borough effective immediately was moved by Councilman Camporeale, seconded by Councilwoman Costantin and carried by roll call vote.

RC: Council members

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

ADJOURNMENT

☞ With no more business to discuss, **motion** to adjourn was moved by Councilman Camporeale, seconded by Councilwoman Costantin and carried unanimously at 11:05 p.m.

Carol Dray, RMC

March 31, 2006