



MAYOR AND COUNCIL MINUTES
Work Session/Regular Meeting

Tuesday, December 4, 2007
7:30 P.M.

BOROUGH HALL COUNCIL CHAMBERS

Municipal Place
Emerson, NJ 07630

Call to Order

Mayor Lamatina called the meeting to order at 7:36 pm. Ashley Kindergan led the salute to the flag followed by a moment of silence at the request of Mayor Lamatina.

O.P.M.A. Statement

Mayor Lamatina read the Sunshine Statement declaring that the meeting of **December 4, 2007** had been adequately noticed and was in compliance to the to the provisions of the Open Public Meetings Law. Further, that this meeting was included in the Annual Meeting Notice Resolution sent to the Bergen Record and Ridgewood News on December 14, 2006 and advertised in said newspapers; posted on the bulletin board in the Borough Hall, Municipal Place, Emerson, NJ 07630 on December 14th, 2006 and has remained continuously posted as the required notices under the Statute.

Roll Call:

Mayor Louis J. Lamatina-Present
Councilwoman Marcia DeSalvo-Present
Councilman Christopher Heyer-Present (arrived at 7:40 p.m.)
Councilman Kenneth Hoffman-Present
Council President Loffredo-Present
Councilman Francis P. Milone, Jr.-Arrived at 8:00 pm
Councilman Brian Todd-Arrived at 10:35 pm

Also present were Carol Dray, Borough Clerk, Priscilla Boggia, Attorney filling in for Phil Boggia, Borough Attorney, and Joseph Scarpa, Business Administrator.

6. OLD BUSINESS

a) ORDINANCES-FIRST READING

1343-07 AN ORDINANCE TO AMEND SECTION. 290-17.3. C. OF THE CODE OF THE BOROUGH OF EMERSON TO AMEND THE AGE REQUIREMENTS FOR AGE RESTRICTED COMMUNITIES (ARC)

☛ **Motion** to introduce Ordinance #1343-07 on first reading was **moved** by Council President Loffredo, seconded by Councilman Heyer and carried by roll call vote.

RC: Council members:

DeSalvo-Yes
Hoffman-Yes
Todd-Absent
Loffredo-Yes
Heyer-Yes
Milone-Absent

Administrator Scarpa and Councilwoman DeSalvo mentioned that the Ordinance entitlement was incomplete and did not include information about residency requirements. Borough Clerk Carol Dray noted that this would be amended to include residency requirements in the entitlement for the December 18 meeting. The body of the ordinance did include the change.

Mayor Lamatina announced that Ordinance No. 1343-07 was duly approved unanimously on first reading and would be further considered at a Public Hearing to be held on December 18, 2007 at 7:30 p.m. in the Council Chambers of the Borough Hall, Municipal Pl., Emerson, N.J and published in the December 7, 2007 edition of the Ridgewood News. Ordinance No. 1343-07 was on file in the Clerk's Office and posted on the official bulletin board of the Municipal Building.

Discussion:

b) Redevelopment

Mayor Lamatina provided an update noting that Atkins had withdrawn last week and that he had been in discussions with Brian Hekemian of Hekemian and planned to meet with Larry Pantirer of Millennium later in the week. His intent at those discussions was to review the events and circumstances since May that lead to The Atkins Realty Group pulling out of the project, density issues, and the concerns of new potential developers and their individual visions for the project.

Councilman Hoffman inquired about whether Joseph Burgis, the Borough Planner, would be present that evening for a discussion about a spreadsheet his office had provided and felt that they public should be present for this discussion. Mayor Lamatina responded that he would

arrive for closed session and Councilman Heyer added that mistakes had been made, but that in the interests of the borough, the Mayor and Council should constructively move forward rather than rehashing the past. Councilman Hoffman again expressed his concerns alleging that density issues were not properly communicated by the planner that resulted in lost time and money for the borough. The Mayor conceded that the governing body had certain questions and concerns for the planner but the focus should be the continuation of the project and encouraged the members to move forward.

Throughout, a member of the public was disruptive by speaking without recognition by the Chair. Councilman Loffredo attempted to quell the commotion by explaining that while the Council would prefer a lower density; the reality was the borough may be required to consider the feasibility of increasing the density to engage developers and sustain the project. Despite this attempt to control the meeting, Mayor Lamatina was forced to continue give the person several more warnings about their lack of self-control and decorum. Mayor Lamatina reminded the public that there would be a discussion in open session with an opportunity for the public to share their opinions during public comment. Ms. Boggia added that the matter would also be discussed in closed session pursuant to the statute.

8. NEW BUSINESS

a) MEL Elected Officials' Training Seminars

Councilwoman DeSalvo stated that based on information in a letter received from the MEL on October 9, the elected officials training seminar would focus on liability trends. For each elected official that attends, the borough will get a reduction of \$250 in premiums. She urged everyone to attend, noting that the nearest class will be held in Mahwah's Municipal Building on January 31. Borough Clerk Carol Dray would be coordinating the meeting registration.

b) Paid Family Leave

Councilman Heyer noted that currently the Family Leave Act allows for an employee to take up to 12 weeks unpaid leave to care for a sick family member or the birth or adoption of a child for employers with 50 or more employees. The revised act, pending in the Legislature, would extend temporary benefits to require that an employee be paid 2/3 of his salary while out; in addition it would apply to companies that employ as few as one or two people. Administrator Scarpa noted that the League is suggesting that the borough oppose this bill. This act is under consideration for the next meeting.

9. REPORTS

Office of the Borough Administrator

The Borough Administrator reported that:

- The annual Christmas Tree Lighting was scheduled to take place on Saturday, December 8 at 7 p.m.
- The contractor had resolved the draining issue at Ackerman Park.
- A sign had been installed at Sunset Park. Councilwoman DeSalvo remarked that she had heard rave reviews from the children using the park.
- The borough had received approval of a \$72,000 for Hillman Park
- The borough would be hosting a meeting of the Pascack Valley Administrators and would be discussing Shared Services including bidding on road resurfacing projects and banking services.

Office of the Municipal Clerk – No report

Borough Attorney – No report

10. 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*
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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 ejection from the council chambers.

☛ **Motion** to open the meeting for comments from the public was moved by Councilman Heyer, seconded by Councilman Hoffman and carried unanimously.

Liz Petriano, 92 Orchard Avenue, stated that she was opposed to a closed session regarding where the redevelopment went wrong. Mayor Lamatina explained that Atkins changed what they said in their presentation and had refused to simultaneously proceed with redeveloping the area north

of Linwood Avenue and south of the Emerson Hotel. Since that was not in the best interests of the borough, the Mayor and Council forced their hand and they decided to withdraw. Mayor Lamatina explained that he believed that the planner had not been straight with the borough and that based on personnel issues and performance, a closed session was necessary. However issues not related to personnel would be discussed in the open session. Ms. Petriano also expressed concerns about the condition of the Police Department offices and noted that she would like to keep Emerson quaint. Mayor Lamatina commented that the Council voted unanimously to proceed with redevelopment after three years of deliberation and explained that Ms. Petriano's views may not be shared by all Emerson residents.

Mr. Donato, 128 Vivian Lane, was in favor of Mr. Burgis' dismissal. Mr. Donato brought forth his recommendations for the redevelopment. In response, Mayor Lamatina explained that without the planned density, the redevelopment plan could not get done and all three developers that had been considered had shared the same opinion. Mayor Lamatina further explained that both Hekemian and Millennium wanted to move the train stop North of where it was currently located. Mayor Lamatina also offered that he had gathered information regarding the Office of Smart Growth and DCA – Development Opportunities Interagency Team – state organizations in Trenton dedicated to proper smart growth. Their purpose was to advocate growth around transportation centers; in brown fields rather than taking green fields and trees. He explained that the current plan was based on redeveloping brown fields; the initiative the State was seeking. Mayor Lamatina concluded that Emerson was not just in need of a good planner, but was also in need of help and support from the State and he was in the process of setting up a meeting with these groups in Trenton.

Councilwoman DeSalvo commented on the discussions surrounding the one spreadsheet with negative financial numbers and noted that the planner probably processed hundreds of such documents. She maintained that the Mayor and Council would not know until they spoke to Mr. Burgis whether this was a draft or final document and that the outcome of the discussion would impact whether or not Mr. Burgis would continue as the project planner. Councilman Hoffman questioned why this work was started and why no one was told about it. Ms. DeSalvo replied that the topic would be discussed when Mr. Burgis was present. Mayor Lamatina commented that he was angry at the time spent working on a plan with artificially low density and that this would be addressed in closed session.

Ms. Gina Calogero – 35 Dorchester Drive – Ms. Calogero conceded that there was a need to fix up the commercial district; that the area was shabby with insufficient parking, heavy traffic and dangerous because of

the train stop but was opposed to adding 300 residential units which she alleged would worsen the problems. She stressed that the town should not proceed with the plan adding that doing so would ruin Emerson in order to save it. She challenged the decision to go into closed session to meet with Mr. Burgis based on the requirements of the Open Public Meetings Act. Mayor Lamatina responded that Mr. Burgis would be discussed in both open and closed session and that only personnel issues would be addressed in closed. Attorney Priscilla Boggia concurred opining that this was a personnel matter exempt under the act.

Shirley Vilardi - 186 Eagle Drive, was concerned with density issues with the addition of 300 residential units and the impact of more families on parking, the school system, police, fire and other public services. Councilman Hoffman noted that density studies may have flawed information and recommended that before moving forward with redevelopment, an aggressively advertised town meeting be scheduled for public participation.

Brenda Van Malden, 133 Eagle Drive, complained of insufficient information on the borough website regarding what would be discussed at the current meeting. She supported developing a new plan with costs and density requirements put before a referendum vote. Councilman Hoffman reiterated that he believed that there should be a town meeting and added that he would not be opposed to a referendum. Mayor Lamatina replied that there were many man hours already invested in the project but that an escrow account had covered some of the expenditures in response to Ms. Van Malden's criticisms of the costs already incurred.

Councilwoman DeSalvo defended the comprehensive redevelopment information provided by Mayor Lamatina and posted on the borough website. She, too, supported a town wide meeting since the economic situation had changed and the residents' opinions may lead to a reevaluation of the project.

Councilman Hoffman noted that the opinion of a few residents at this meeting might not be a fair representation of the majority of residents and that an aggressively advertised town meeting may would be a more accurate gauge of public opinion.

Jerry Paledoro - 77 Piermont Road, Norwood, was the owner of 200 Kinderkamack Road and shared his frustration at his alleged inability to be heard before the Planning Board since September. Mr. Paledoro lobbied the Mayor for his permission to allow property owners to redevelop their own properties. Mayor Lamatina replied that the County had responded to his plan and notified Mr. Paledoro that there was an

issue of access onto Kinderkamack Road. Mayor Lamatina reminded him that the redevelopment plan called for shared parking which would require coordination with his neighbors. He also reminded Mr. Paledoro that because his property was in the redevelopment zone, the law allowed the Borough of Emerson to limit individual property owners from making property improvements during the redevelopment process referencing an appellate division discussion from July 2007 in support of his claim. With respect to Mr. Paledoro's request to appear before the Planning Board in December, Mayor Lamatina stated that he would speak with the Borough Attorney and get back to him.

William Yeungling - 176 Kinderkamack Road, expressed numerous presumptions and frustrations in regard to the Redevelopment. Notably, his inability to sell his property which he blamed on the redevelopment. Mr. Yeungling also expressed his willingness to develop the whole property near his business, Hot Dog Heaven.

Councilwoman DeSalvo stated that in the past, property owners had not responded well to the borough's request to submit redevelopment plans but she was now encouraged by the current interest of property owners.

William Price - 9 Emwood Drive - supported allowing property owners in the redevelopment area to improve their own properties. He recommended that the floor/ratio code be reexamined in opposition to large driveways in his Continental Woods neighborhood. He shared his concerns with the trains in town and the closing of Pascack Valley Hospital.

Mayor Lamatina noted that the borough had originally proposed that property owners redevelop their own properties but that no one came forward. Based on the borough's experience with Atkins, they have learned a lot so he did not believe that the time was ill spent. He conceded that the Council was aware of the difficulties and obstacles of the Redevelopment process but was committed to implementing smart growth strategies; acknowledging the need to widen Kinderkamack Road and move the train stop.

Samuel Bornstein, Attorney, representing Pauline and Sal Gebbia, owners of Weather Craft in the Redevelopment area, read from a prepared statement that was distributed to the governing body at that time.

Mayor Lamatina responded that since the issue referenced in Mr. Bornstein's statement occurred in 2006, he could not comment on it.

Approved 1-15-08

Councilman Hoffman responded that he would be asking Mr. Burgis for a copy of all emails between Mr. Burgis and former Mayor Setteducati going back to 2004 regarding the phantom design committee.

Mayor Lamatina explained that there was a process with the Planning Board and Mayor and Council where the redevelopment was reviewed in public session and voted on. Also public hearings began in 2003 regarding whether there should be a redevelopment zone. Councilman Hoffman argued that while a lot of the plan was reviewed in public, there were other things that were not. Mayor Lamatina agreed that the spreadsheet was of concern.

Liz Petriano expressed her concerns at the cost to the town of the redevelopment thus far. Mayor Lamatina noted that he could not provide an answer for costs prior to 2004, but that the \$25,000 escrow received from Atkins had been used to pay for the engineer, planner and attorney. Administrator Scarpa estimated that since 2003, the costs per year ranged from approximately \$25,000 to \$30,000.

Mr. Polidoro announced that if the Planning Board would meet with him in December and approve his plan that he was ready to develop. He alleged that he was told by Atkins that his property would not be acquired. Mayor Lamatina noted that Atkins never told that to the borough and had, in fact, stated that they were committed to developing north and south of Kinderkamack Road. Problems developed when Atkins started saying different things at different meetings. He said that Atkins had been swiftly terminated for many reasons and it had become clear that they had no intention of acquiring properties. Mayor Lamatina agreed that Mr. Polidoro's property needed to be redeveloped because the road needed to be widened and that it was an eyesore. The Mayor acknowledged that things had changed and that they were there to listen to public opinion for future plans.

Mr. Della Volpe – Kinderkamack Road – He stated that he is on board to redevelop his property. Mayor Lamatina responded that this was the first time that property owners had made the borough aware that they were willing to redevelop their properties on their own and asked them to prepare a plan for review within a week to ten days if they wanted to be considered a redevelopment entity for the borough's consideration. He emphasized though, that the plan must be in compliance with the redevelopment plan.

Councilman Heyer also stated that he would be interested in hearing from the property owners if they had a packaged redevelopment plan. But he added that parking was a major issue and that the plan must address parking adequately to make things better, not worse.

Approved 1-15-08

Mr. Vincent Donato, 128 Vivian Avenue, approved the widening of Kinderkamack Road. Mayor Lamatina noted that any approval of redevelopment plans was contingent on the donation of adequate land to the County to widen Kinderkamack Road. Mr. Donato also mentioned that he was opposed to allowing three story buildings in the borough.

Ms. Gina Calogera, 3 South Dorchester Road, stated that Kuiken Brothers, the Emerson Hotel and Arthur's Restaurant were thriving businesses and not blighted in her opinion. She recommended scrapping the redevelopment plan and starting over.

Mayor Lamatina informed her that those three properties were part of the redevelopment plan, although some of the redevelopers did not want to develop them.

Mr. Yeungling, 176 Kinderkamack Road, stated that if he and a few other property owners started developing their properties, a redeveloper might not be interested in the borough's project. He did not want the borough to lead him down a 'dark path' if the borough would not seriously consider his plans.

Mayor Lamatina replied that he was listening to everyone and was not sure if redevelopers would be hurt by a pre-existing plan to redevelop the area north of Linwood first. Councilman Milone noted that he would like to see the individual property owners' plans but was concerned about the look of something that was not unified. He wanted to see continuity and explained that everyone would have to be on board for an independent project to succeed. Mayor Lamatina agreed the project would be an effort of coordination securing a sense of continuity. He also stated that the borough had increased the allowable density for the property owners which increased the value of their properties. In exchange, the property owners must comply with the plan.

Mr. Joe Burgis, Borough Planner, had reviewed the two redevelopment options for the borough. Option 1 was a more modest level of development detailing how individual property owners could participate by redeveloping, fixing, adding to the rear of their buildings, etc. rather than one large developer doing the entire project. The owners would still have to take parking and shared need into consideration in this plan. Option 2 was a more comprehensive plan to be undertaken if the property owners could not unify to pursue Option 1. It entailed the addition of 311 dwelling units and increased retail space. Both Hekemian and Millennium stated that these stipulations were necessary to make the project viable on a large scale. Atkins plan specified 175 units in one location which was inconsistent with the redevelopment plan. Future

phases would potentially end up with a lot more units and additional square feet of retail space.

Mr. Burgis also addressed the issue of the phantom redevelopment subcommittee. He stated that it never existed and that the issue was blown out of proportion. He stated that his colleague, Brigitte Bogart, had used it as an internal spreadsheet which did not include all properties. Councilman Hoffman asked why it was not complete to which Mr. Burgis replied that they had used it to start making their own assessments so that they would have sufficient data to continue the process. They did not need to continue the exercise to continue their work. They had attempted to include enough information to make developers interested in the plan. The end result after public input was to include two and three story buildings, with four stories in selected locations to make it work. He added that the governing body wanted a plan that would encourage redevelopment, a generic guide for a small developer to use. The developer would make adjustments and would tell the borough what would make financial sense. Mr. Burgis also stated that planners are land use planners, not fiscal experts.

Brigitte Bogart, Designer/Planner for Burgis Associates, stated that she wanted to explain the 'infamous' spreadsheet and detailed how she pursued the design process for the redevelopment plan. She noted that many factors were taken into consideration including design, buffers, planning factors, general planning guidelines, sidewalks, etc. She added that financial aspects were also part of this process to make sure that what they were doing was appropriate. The spreadsheet was not complete, but was used as a design tool to fit with many other goals and objectives. She also explained that the shared spreadsheet contained information that was outdated and incomplete. Councilman Loffredo stated that the document would not impact what was being done now. Councilwoman DeSalvo emphasized that it was a draft document. Mr. Burgis declared that he was concerned with the ongoing controversy and apologized for the confusion. Councilman Loffredo explained that he believed that with Atkins pulling out, the spreadsheet added to the excitement. Councilwoman DeSalvo stated that she was glad that the 'smoking gun' issue was cleared up and that the public had been under the wrong impression.

Mr. Polidoro, commented that he would like the Mayor and Council to reconsider Option A – each property owner developing their own property – since Option B did not work. Mayor Lamatina noted that he was willing to listen and that the Council would deliberate all current circumstances and make a decision.

Approved 1-15-08

Sal Gebbia stated that in the original presentation at Emerson High School, Mr. Burgis noted that certain properties were in need of redevelopment, but that others were not. His business, Weather Craft, was in pristine condition and included a residential tenant. He asked if it was still not in need of redevelopment. Mayor Lamatina explained that there was no change in the plan. Individual buildings may not need redevelopment, but according to the statute, that does not mean that they cannot be included in a zone based on court law. Mayor Lamatina stated that Mr. Gebbia's building was nice but that it can still be included in an overall redevelopment plan. Mr. Gebbia questioned what the cutoff was for property owners to develop their own property. Mayor Lamatina replied that he and the Council would decide what was best for the entire borough and not just for the people that attended the meeting. He added that the current plan had not changed and that there may not be any changes in the future.

Liz Petriano, suggested that the Mayor and Council rethink the redevelopment plan and scrap it in favor of letting people develop their own property. Mayor Lamatina reminded Ms. Petriano that she was repeating herself. She also apologized for talking out of turn and blamed it on her Italian temper.

Mr. Burgis expressed his opinion that the central plan incorporated a lot of what the public talked about. He also wanted to go on record as not having made any mistakes.

Mr. Price remarked that he would like the town to get involved and was not crazy about redevelopment.

☞ Seeing no more hands, Councilman Heyer **moved** to close the meeting for public comment, seconded by Councilwoman DeSalvo and carried at 10:10 p.m.

11. CONSENT AGENDA-RESOLUTION No. 194-07

☞ **Motion** to approve the Consent Agenda Resolution No. 194-07 was moved by Councilman Heyer, seconded by Councilman Loffredo and approved unanimously by roll call vote.

Roll Call Councilpersons:

DeSalvo-yes
Hoffman-yes
Loffredo-yes
Heyer-yes
Milone-yes

Approved 1-15-08

ca #195-07 Award contract for barrier-free modifications in the
Municipal Building
ca# 196-07 Bill List
ca# 197-07 DeMarco Communications, LLC – agreement to provide
official Borough periodical for distribution to all Emerson residents 10
times per year
ca#198-07 Transfers within the 2007 Budget

12. CLOSED SESSION RESOLUTION No. 199-07

☞ **Motion** to close for an executive session to discuss matters exempt from the public as duly noticed by Resolution No. 199-07 was moved by Councilman Heyer, seconded by Councilman Hoffman and carried by roll call vote.

RC: Council members:

DeSalvo-Yes
Hoffman-Yes
Loffredo-Yes
Heyer-Yes
Milone-Yes

#07-12/4-52 Personnel-Police Chief Contract
#07-12/4-53 Personnel-Borough Planner
#07-12/4-54 Litigation-DPW Contract

12. RECONVENE

Motion to reconvene was moved by Councilwoman DeSalvo, seconded by Councilman Todd and carried by roll call vote.

RC: Council members:

DeSalvo-Yes
Hoffman-Yes
Todd-Yes
Loffredo-Yes
Heyer-Yes
Milone-Yes

☞ **Motion** to approve allowing the Planner to contact other redevelopers and assess their interest and feasibility with moving forward with the redevelopment plan and prepare a spreadsheet study was moved by Councilman Heyer, seconded by Councilwoman DeSalvo and approved unanimously by roll call vote.

Roll Call Councilpersons:

DeSalvo-yes

Approved 1-15-08

Hoffman-yes
Todd-yes
Loffredo-yes
Heyer-yes
Milone-yes

13. ADJOURNMENT

With no more business to discuss, the meeting was adjourned on a motion by Councilman Heyer, seconded by Council President Loffredo at **12:15 a.m.**

Carol Dray, RMC/CMC

January 9, 2008