

Approved January 5, 2009



**MAYOR AND COUNCIL MINUTES**

**Regular Meeting**

Tuesday, October 21, 2008

7:30 P.M.

**Executive (Closed) Session**

**BOROUGH HALL COUNCIL CHAMBERS**

Municipal Place

Emerson, NJ 07630

**Call to Order**

Mayor Lamatina called the meeting to order at 7:35 pm. Hillsdale Mayor John Sapanara 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 announcing that the meeting of October 21st, 2008 had been adequately noticed and was in compliance with the provisions of the Open Public Meetings Law. Further, that the meeting was included in the Annual Meeting Notice Resolution sent to the Bergen Record and Ridgewood News and advertised in said newspapers; posted on the bulletin board in the Borough Hall, Municipal Place, Emerson, NJ 07630 and has remained continuously posted as the required notices under the Statute. In addition, a copy of the notice was on file in the Office of the Municipal Clerk and had been available to the public since its approval by the governing body.

**Roll Call:**

Mayor Louis J. Lamatina - Present  
Councilman Steven Bair - Present  
Councilwoman Marcia DeSalvo - Present  
Council President Christopher Heyer - Present  
Councilman Kenneth Hoffman - Absent  
Councilman Anthony Loffredo - Present  
Councilman Francis P. Milone, Jr. - Present

Also present were Carol Dray, Borough Clerk, Joseph Scarpa, Borough Administrator, and Philip Boggia, Borough Attorney.

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## 6. APPROVAL OF MINUTES

a) September 16, 2008 Regular Meeting

☛ **Motion** to approve the Regular Meeting Minutes of September 16th, 2008 was **moved** by Council President Heyer, **seconded** by Councilman Loffredo and carried.

b) September 29, 2008 Special Meeting

☛ **Motion** to approve the Special Meeting Minutes of September 29<sup>th</sup>, 2008 with corrections was **moved** by Councilman Milone, **seconded** by Councilman Bair and carried.

## 7. PROCLAMATIONS

National Breast Cancer Awareness Month

Mayor Lamatina stated that he had signed a Proclamation in recognition of National Breast Cancer Awareness Month.

## 8. CORRESPONDENCE

Mayor Lamatina announced that copies of the correspondence were on file in the Office of the Municipal Clerk.

Letter dated 9/12/08 – Ms. Bernadette McPherson, Freeholder Bergen County; Re: Bergen County Film Festival

Letter dated 9/12/08 – Ms. Lucy Vanderberg, Council on Affordable Housing; Re: Development fees and P.L. 2008, c.46

Letter dated 9/12/08 – Farouk Ahmad, Director, Dept. of Planning & Economic Development; Re: Bergen County Comprehensive Farmland Preservation Plan

Letter dated 9/16/08 – John L. Schettino, L.L.C. Re: Stonebridge at Emerson

Letter dated 9/16/08 – Alan A. Rockoff, State of NJ Commission of Investigation; Re: Alarming Contracts

Letter dated 9/23/08 – Assemblywoman Charlotte Vandervalk; Re: COAH mandate

Letter dated 9/24/08 – Senator Gerald Cardinale; Re: Senate Bill S-1455

Letter dated 9/24/08 – Senator Gerald Cardinale; Re: Senate Bill S-770

Letter received 9/29/08 – Hilmar Vlacich; Re: Redevelopment

Letter dated 10/1/08 – Lorraine Joewono, Director, Bergen County Dept. of Human Services; Re: Senior and Disabled Citizens

Letter dated October 2008 – Assemblyman John Bramnick, Re: COAH new state mandated housing

## 9. OLD BUSINESS

- a) Hillman Field Project Status – Mr. Scarpa referenced a letter from Maser Consulting to the contractor, JC Landscaping and Manufacturing identifying punch list items that required resolution - some of them costly. He said that the major issue was the grading of the field. Other fixes included moving about six sprinkler boxes and installing a drain. He added that there might be a potential for litigation due to these developments. Councilwoman DeSalvo questioned the engineering bills and the site inspection costs and asked why these items had not been addressed while the work was being performed. Mayor Lamatina said that the location of the sprinkler boxes was inexcusable and that the inspector should have seen that. He added though, that grading was different and that it can't be inspected with the naked eye. The Mayor said that this was a contractor problem and that it was not graded properly. Mr. Scarpa remarked that the bills did include inspection of the grading. Councilwoman DeSalvo was dissatisfied that the inspectors were being paid and were unable to pick up on these issues while on site. Councilman Milone discussed previous projects where he believed that inspectors should have prevented problems and asked about the cost to fix these items. The Mayor explained that the contractor did not follow the plans and did not think that the Borough should be responsible for paying Maser any more money to inspect the necessary corrections. Councilman Loffredo stated that beyond placing blame, the Borough needed to figure out how to fix this project. Councilman Milone emphasized that if issues were overlooked by Maser, it should not be the Borough's responsibility to pay for Maser to oversee the fixes. The Mayor said that Mr. Scarpa should potentially compose a communication to Maser stating that the Council is not happy with the way some things were done and does not want to be billed for it. Councilwoman DeSalvo commented that the Borough was paying more and more and more, and just getting inferior work. She said that Maser had an obligation and they did not seem to meet it. Councilman Milone concurred, adding that he wanted to make sure that the Borough was not paying twice for work that should have been performed right the first time. Mayor Lamatina asked Mr. Scarpa to communicate this to Borough Engineer Paul Niehoff. He also stated that the Borough will have to continue to monitor this situation. Councilwoman DeSalvo expressed that the Borough needs to be getting what it pays for. The Mayor emphasized that the field looked excellent, despite the issues just discussed.

- b) Fire Department Boat – Councilman Milone noted that the Fire boat was for sale and had been listed on a personal E-Bay account. Moving forward he asked if the Borough was prepared to replace the boat with a new boat. The Mayor stated that the current boat was inappropriate for its anticipated use. Mr. Scarpa said that during budget discussions, a new boat was included as part of a bond. He added that the boat should not have been brought down to Wildwood with a For Sale sign and that he had forgotten about the auction process. He said that he contacted the Chief at the convention and they had taken the For Sale sign off the boat. He added that E-bay was an approved sight for auctions for towns, however; it should not have been done on a personal account and had been removed. Ms. Dray explained that a minimum bid price had to be determined, an on-line auction site had to be decided on, the sale had to be advertised in the same statutory way, and all approved by resolution. Mr. Scarpa said that he would determine how the minimum bid was set and use that as the reserve price.
- c) Ambulance Corps – The Governing Body praised Captain David Mason for being recognized as a Volunteer of the Year by the County. Councilwoman DeSalvo noted that Mr. Mason would be formally recognized on October 30<sup>th</sup> at a County event that she and the Mayor would attend. Mr. Mason thanked the Governing Body and took the opportunity to review the condition of the ambulances currently in use. He discussed safety and mechanical issues that could potentially impact his crew and patients who utilize the 1994 ambulance. He recommended a company, Road Rescue, which could remount a chassis on the 1994 ambulance to turn it into an upgraded 2009 vehicle at a cost of approximately \$92,000. He said that no modifications would be necessary to replace the cabin chassis. The Governing Body questioned Mr. Mason about costs, ambulance use, technology, changing regulations, and safety features. Councilman Milone expressed that now may be the best time to make this change as DEP regulations may change and the Borough might not be able to upgrade the 1994 chassis at a later date, necessitating the more expensive purchase of a new ambulance. Mayor Lamatina stated that Mr. Mason's request would be considered in January and February 2009 when they discuss the allocation of scarce Borough resources. Mr. Mason concluded by stating that this change would increase the Ambulance Corps and patient safety.
- d) Dairy Queen Guardrails – Mr. Scarpa said that Gary Ascolese of the County noted that the traffic barriers were being put in the budget for this year. Council President Heyer suggested putting a barrier there in coordination with the County, even if it was on a temporary basis. The Mayor recommended seeking County

permission. He had the consensus of the Governing Body for Mr. Solimando to proceed with moving forward with this plan.

- e) Amending Chapter 232 – Signs and Awnings and Chapter 290 – Zoning – Mr. Boggia had prepared a new ordinance for discussion since the previous one had limitations and was not consistent with recent case law that had expanded the rights of non-commercial speech. He added that if the previous ordinance was challenged, it would be invalidated. Therefore, he proposed drafting an ordinance that reflected the current requirements of the law and would address community concerns about too many signs proliferating throughout the municipality. Mayor Lamatina recommended that the Governing Body review the draft local legislation between now and when it would be introduced.

## 10. NEW BUSINESS

- a) 58 Kinderkamack Road -Stonebridge at Emerson – Trash and Recycling Pick up – Mr. Scarpa referenced a letter received from the attorney that represented the age-restricted condo association. The residents wanted to meet with the Council to discuss collecting trash from their dumpsters. Mr. Scarpa added that the Borough was not obligated to pick up their trash; and that presently, the association paid private solid waste haulers to empty their dumpsters. Mr. Boggia stated that the Borough was only under obligation to provide the same service provided to every other resident, not a specialized service to accommodate their special kind of container. Mayor Lamatina added that he did not see a need for a meeting since the Borough would go on Mr. Boggia's opinion. The consensus was for Mr. Boggia to write a letter in response to the association's request addressing the law.
- b) Pay to Play-2009 Professional Appointments – Mayor Lamatina stated that the Council needed to decide how to proceed for the 2009 budget year. Previously, the Borough had used the 'non-fair and open policy' otherwise known as the alternate route. Ms. Dray explained that there were deadlines to meet for whichever method the Governing Body decided on and paperwork to administer. Councilman Loffredo referenced the strong pay-to-play ordinance currently in place. The consensus was to pursue alternate route appointments.
- c) Awarding Lincoln Avenue Road Improvement Contract-Resolution No. 184-08 – Mr. Boggia stated that he reviewed the bids documents and the apparent lowest, responsive bidder was submitted by L & L Construction. He recommended awarding them the bid in the amount of \$126,270.

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☛ **Motion** to approve Resolution No. 184-08, awarding L & L Construction the contract for Lincoln Avenue Road Improvements was **moved** by Councilman Bair, **seconded** by Councilman Hoffman and carried by roll call vote.

**RC: Council members:**

**DeSalvo-Yes**

**Bair-Yes**

**Milone-Yes**

**Heyer-Yes**

**Loffredo-Yes**

## 11. BOARD AND COMMITTEE REPORTS

### **MAYOR AND COUNCIL**

Councilwoman DeSalvo gave the **Library** Report, noting that the Board had given a lunch to celebrate Staff Appreciation Day. She said that it was a lovely affair and thanked the entire staff for all their hard work. In addition, the Library was planning a 50<sup>th</sup> anniversary event for early in 2009. She also attended the **Fire Department** Inspection Dinner and said that it was wonderful to see all the members in their dress uniforms. She commended the Ladies Auxiliary for their outstanding contributions to this wonderful event.

Councilman Bair reported on the Board of Education meeting and discussed a program where juniors and seniors help orient seventh and eighth grade students to the high school. He commended the school system.

Councilman Milone – No report

Councilman Heyer – No report

Councilman Loffredo gave the monthly **Police Department** report for September 2008. He discussed the well attended Police Open House where everyone had a great day.

Mayor Lamatina discussed the recent ribbon cutting ceremony at Pascack Valley Hospital organized by Hackensack University Medical Center and Westwood Mayor John Birkner. He said that the ceremony was impressive and that Mayor Birkner had done a bang up job. He added that renewal hearings were coming up in December and urged the Governing body to attend write letters to the State Dept. of Health. He emphasized that Ridgewood's Valley Hospital and Englewood Hospital were trying to influence the State to deny the renewal of Pascack Valley Hospital. The consequences of that would mean that the Pascack Valley would not have a full service hospital, only an emergency room. The Mayor closed by saying that it would be a fight, but that Pascack Valley

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was right on this and it the most important, acute issue facing the area right now.

On other issues, Mayor Lamatina said that Oritani Bank's grand opening would take place on November 1<sup>st</sup>. He added that the building was beautiful and was constructed in accordance with the existing Redevelopment plan. He said it represented what Emerson's downtown could look like.

The Mayor updated the Governing Body on the last Redevelopment hearing at Borough Hall. Maser Consulting's traffic expert testified and he anticipated that hearings would be completed on November 6<sup>th</sup>. He hoped that a vote would take place at that time and that Joseph Sanzari and Gary Ascolese would testify. He urged Mr. Scarpa to get a newsletter out on Redevelopment to dispel any false information spread by some sources. In addition, he stated that other builders were interested in getting involved in Redevelopment, based on information recent press coverage.

**BOROUGH ADMINISTRATOR** - Mr. Scarpa replied to the Mayor by noting that the newsletter did go out last week to all Emerson residents. It included information about the leaf bags available at the DPW. He added that the Borough had saved money by incorporated the leaf bag announcement in the newsletter. Mr. Scarpa shared that he had been nominated to the State League of Municipalities Resolutions Committee and had been working on two documents he would be sharing at the NJLOM Convention in November - one related to unfair COAH regulations, the other on unfair aid cuts to small towns.

The Mayor followed up by discussing a resolution he wanted added to a future meeting agenda allowing him to sign a complaint on behalf of the Borough regarding COAH regulations. He anticipated that many other towns were planning on doing the same thing. He explained that this is a unique process not done much before and if it was decided it the Borough's favor, it would not be appealable. Mr. Boggia added that the Mayor would need a lot of specific information; Mayor Lamatina said that the Borough would work with the Planner to complete the necessary documents. Mr. Boggia proceeded to detail the requirements of the third round COAH obligations and how it violated the State mandate.

Mr. Scarpa mentioned that he had submitted the 2009 Community Grant application for \$8,400 for a chair lift at the Fire House to meet ADA objectives. He addressed the recent vandalism at the town parks, noting that thousands of dollars of equipment has been damaged. He was working with the Police Department and **DPW** to resolve this. The Police planned to increase night patrols. Councilman Loffredo emphasized that the vandalism was intolerable and asked about installing a security camera system as part of the 2009 budget. Mr. Scarpa said that the Police were considering this option.

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Mr. Scarpa said that he and Mr. Solimando planned to meet with the other Pascack Valley towns to consider sharing DPW equipment and services. He also mentioned that the curb ramp project was proceeding and that the quarterly safety meeting was held. He also shared with the Governing Body that Emerson had received \$8,800 from the Clean Communities Program which was used to purchase leaf bags and that the electronic sign was being put together and would be installed shortly. On other topics, Mr. Scarpa stated Mr. Solimando would need a contract at the next meeting to go into contract with the Northwest Bergen Utilities Authority to help maintain the Borough's wastewater collection system. Based on Mr. Solimando's research, he recommended this company as the one to contract with.

**BOROUGH CLERK** – No report

**BOROUGH ATTORNEY** – No report

## 12. PUBLIC COMMENT

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

☛ **Motion** to open the meeting for comments from the public was **moved** by Councilman Loffredo, **seconded** by Council President Heyer and carried at 9:00 p.m.

Mike Budres, 93 Pascack Avenue referenced a flyer in the Pascack Press discussing downtown that urged residents to attend the meeting and alleged that the flyer contained a lie to mislead people and create a lot of confusion. The Mayor agreed that there was a great deal of misinformation out there and complimented the coverage of all the local papers in setting the record straight regarding redevelopment. He added that the Borough was planning to do a newsletter explaining the status of the Redevelopment. Mr. Budres referenced Oritani Bank an example of what the downtown would look like concurring with Mayor Lamatina. Mr. Budres added that residents were concerned with keeping the tax rate stable in town opining that the only way to do that was by generating more revenue through Redevelopment, especially commercial

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Redevelopment. He commented that he was disappointed with Councilman Hoffman's comments that the downtown plan should be scrapped inquiring what he and Mr. Lazar planned to do to keep Emerson's tax rate stable without Redevelopment.

As an example, Mayor Lamatina the Emerson Pharmacy tax revenue redeveloping their property rose 150%.

Brian Todd, 207 Palisade Avenue also mentioned misinformation in the flyers and found it disturbing that two people running for Council were telling direct lies. He complimented the Governing Body on their work on Redevelopment and encouraged them to continue with their plan.

John Lazar, 32 Hasbrouck Avenue asked the Mayor whether four story buildings were part of the Millennium negotiations and if Millennium had lived up to their obligation to provide an additional \$25,000 escrow. The Mayor replied affirmatively to first question and 'no' to the second. Mr. Boggia gave a brief overview of the redevelopment process and explained that Millennium had submitted their proposal under the original Redevelopment plan which was now under reconsideration. He continued by noting that Millennium was concerned that there may not be another plan based on the release of information – if there was no new plan, then they were under no obligation to give the Borough additional escrow. The Mayor stated that the Borough did not agree with Millennium's vision for the downtown and that there would be a new plan put forth by the Governing Body and Mr. Burgis shortly after the designation was done. Mayor Lamatina was perturbed by the inaccuracy of Mr. Lazar's comments noting that as a member of the Planning Board, Mr. Lazar had approved a modification to the Emerson Hotel in direct conflict to what Mr. Lazar's recent comment that business owners in the Redevelopment area could not improve their properties. Mayor Lamatina corrected the Mr. Lazar's inaccuracy by clarifying that they just could not redevelop their property if it was not in accordance with the plan. Mr. Lazar also stated that high density housing would not improve the tax base. Mr. Boggia interjected and explained to Mr. Lazar that he was reacting to speculative information – there was a plan in place which was not high density – and it was premature for him to jump to conclusions based on speculation when the plan in place since 2006 would have to be complied with if the Borough stayed with it. But the Borough was currently engaged in the continuation of a study and it was unfair for the Governing Body to have to respond to speculation of four story buildings or 380 units – the plan was not in existence.

Hillsdale Mayor Sapanara, 237 Ell Road stated that he grew up in Emerson and his ancestors moved here in the 1880's. He supported Redevelopment as had his family since it was first discussed in the 1950's. He encouraged the Mayor, the Governing Body, Planning Board and the public to persevere in this plan adding that Emerson needed to move forward in the face of controversy. He said that Emerson has historically been fraught with controversy, often over development,

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adding that if people had not persevered at different points in the town's history, residents would not have the nice Borough they enjoy today. Mayor Lamatina thanked Mayor Sapanara and mentioned that he was shocked to realize that the County had been trying to correct issues on Kinderkamack since 1959, a total of 49 years. He complimented the Council and previous Governing Bodies for committing to Redevelopment and moving forward. He emphasized that the traffic problems were a regional issue and that this was a major reason to get Redevelopment accomplished. The Mayor continued by explaining that while the Council was acutely aware of density issues, Millennium said that they needed the density to do the project, but that this would not fly. So the issue now was density and how much was needed to get the road taken care of. Mayor Sapanara concluded by saying not to be afraid of Redevelopment – if Emerson had been afraid, they would still be part of Washington Township, without a shopping center or any housing developments.

Mike Budres, 93 Pascack Avenue mentioned Oritani Bank and the apartments at the second level. He shared comments made by Mayor Wenzel of Washington Township who said that he wished that his Borough had the potential for ratables that Emerson had. He questioned what those opposed to Redevelopment had as an alternate plan to generate ratables in the Borough.

Seeing no more hands, Mayor Lamatina asked for a motion to close the meeting to comments from the public.

☞ **Motion** to close the meeting to comments from the public was **moved** by Council President Heyer, **seconded** by Councilman Loffredo and carried at 9:20 p.m.

### 13. CONSENT AGENDA-Resolution No. 180-08

☞ **Motion** to approve the Consent Agenda Resolution No. 180-08 was **moved** by Councilman Loffredo, **seconded** by Council President Heyer and carried by roll call vote.

**RC: Council members:**

**DeSalvo-Yes**

**Bair-Yes**

**Milone-Yes**

**Heyer-Yes**

**Loffredo-Yes**

Ca#181-08 Approve Bill List

Ca#182-08 Confirm Endorsement of Community Development Grant of \$8,400.00 for Barrier-Free Improvements at the Emerson Fire House

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#### 14. CLOSED SESSION RESOLUTION No. 183-08

☞ **Motion** to close for an executive session to discuss matters exempt from the public as duly noticed by Resolution No. 183-08 was **moved** by Councilwoman DeSalvo, **seconded** by Councilman Loffredo and carried by roll call vote at 9:22 p.m.

**RC: Council members:**

**DeSalvo-Yes**

**Bair-Yes**

**Milone-Yes**

**Heyer-Yes**

**Loffredo-Yes**

#08-10/21-79      Contract Negotiations - Police

#08-10/21-80      Litigation – Police

#### 15. RECONVENE

☞ **Motion** to reconvene was **moved** by Council President Heyer, **seconded** by Councilman Milone and carried at 10:45 p.m.

#### 16. ADJOURNMENT

With no other business to address, at the request of Mayor Lamatina, Council President Heyer **moved** to adjourn the meeting, **seconded** by Councilman Loffredo and carried at 10:50 p.m.

Carol Dray, RMC, CMC

November 19, 2008