



**MINUTES  
BOROUGH OF EMERSON  
MAYOR AND COUNCIL**

**November 13, 2012  
7:30 P.M.**

**Borough Hall-Council Chambers  
Emerson, NJ 07630**



Mayor Colina called the meeting to order at 7:34 p.m., and identified the emergency exits. Patrol Officer Carol Leins led the assembled in the salute to the flag. The Mayor asked everyone to remain standing for a moment of gratitude, silence and good thought for Emerson's first responders. He noted that there was still a state of emergency in New Jersey and expressed great gratitude to emergency responders and the DPW and all involved in protecting and serving. The Mayor and the assembled also sent birthday greetings to Nancy Rossi.

**O.P.M.A. Statement**

Mayor Colina read the Sunshine Statement announcing that the meeting of November 13th, 2012 had been adequately noticed and was in compliance with the provisions of the Open Public Meetings Law. Further, that the Special Meeting notice was transmitted to the Record and Ridgewood News on November 6, 2012; posted on the bulletin board in the Borough Hall, Municipal Place, Emerson, NJ 07630 and has remained continuously posted as the required adequate notice 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:**

**PRESENT:**

Mayor Colina, Councilwoman DiPaola, Councilwoman Garis, Councilman Knoller, Councilman Rivers, Council President Shaw, Councilman Worthington

Also present were Borough Attorney Scott Mooney and Borough Administrator Joe Scarpa.

**III. PROCLAMATIONS & CITATIONS**

- Swearing in Ceremony of Emerson Police Department Sergeant Carol Leins  
The Mayor invited Council President Shaw and Councilman Rivers to join him at the dais to swear in Carol Leins as the first female sergeant in the Borough of Emerson. The Mayor said the interview process impressed everyone and gave them confidence in the entire Police Department. He said one of the most impressive moments was the heartfelt and sincere congratulations given to Officer Leins by her brothers in blue when the promotion was announced. He said they were proud that they had the best police department in Bergen County. After Sergeant Leins was sworn in, the crowd erupted in applause.

Chief Rossi thanked Mayor Colina and the Council for their vote of confidence in moving forward to fill some voids in the Police Department. He said that because of Sergeant Leins' will, determination and character, she stood before everyone. He remarked that she was the first female officer and now is the first sergeant. She would work well with the rest of the command staff and he was very proud of what she had accomplished.

Sergeant Leins thanked the Mayor and Council and said it was an honor and privilege to serve the Borough of Emerson as sergeant and looked forward to doing the very best job she could. She also thanked her family, friends, neighbors, Chief Rossi, Captain Buono, Lieutenant Mazzeo and the entire police department. She shared a story with the group about first taking the test for sergeant promotions in 1997 and her father, a retired NYPD detective, asked when she would be made sergeant. She added that he would ask her several times a year for the last fifteen years. She explained that small towns were different, with fewer opportunities and other circumstances. She noted that her father had passed away over the summer but she had one thing to say: "Dad – they made me sergeant!"

IV. APPOINTMENTS/RESIGNATIONS - None

V. CORRESPONDENCE

Mayor Colina announced that copies of the correspondence were available in the office of the Borough Clerk.

- Letter dated October 19, 2012 from Senator Gerald Cardinale; Re: DEP Recycling Tonnage Grant in the amount of \$17,452.35
- Letter dated October 19, 2012 from BC Joint Insurance Fund; Re: 2012 Dividend in the amount of \$8256.97
- Letter dated October 22, 2012 from Assemblyman Robert Schroeder; Re: NJDEP Recycling Tonnage Grant in the amount of \$17,452.35
- Letter dated October 25, 2012 from Executive Director Anthony Marchetta, NJ Housing Mortgage Finance Agency; Re: NJ HomeKeeper Program

VI. UNFINISHED BUSINESS

- Approval of Minutes

Mr. Mooney said he had no issue with the August 7<sup>th</sup> minutes but in regards to the August 21<sup>st</sup> and August 31<sup>st</sup> meetings, his recommendation was to hold off making any changes for the time being due to potential litigation that might be coming down the road. He said they had to keep the record pristine at this point in time.

Councilwoman DiPaola requested an explanation. Mr. Mooney said he could not explain in public but it could be added to Closed Session for next time. Councilwoman Garis said she had already met with Ms. Dray regarding some changes and asked if that would be an issue. Mr. Mooney said yes. Councilwoman Garis said she thought Ms. Dray had already made those changes. Mr. Mooney explained that nothing had been voted on yet. Councilwoman DiPaola said they had already gone over August 7<sup>th</sup> and August 21<sup>st</sup>; the drafts had already been changed and sent to the Governing Body. Mr. Mooney responded that they had not been voted on. Councilwoman DiPaola inquired about the topic of litigation. Mr. Mooney replied that he could not. Councilwoman DiPaola asked when he knew about this. Mr. Mooney said it was that day. She asked the time. Mr. Mooney said he did not know as he was in court. Councilwoman DiPaola asked if he was in the building earlier that day. Mr. Mooney said he was. She asked if he had a meeting. Mr. Mooney said he did not have to address his whereabouts during the day. She asked again if he was in the building and had a meeting. Mr. Mooney confirmed he was in the building.

- Regular Meeting of 8/7/12
  - ☛ **Motion** to approve Regular Meeting minutes of August 7<sup>th</sup>, 2012 with corrections was **moved** by Councilman Rivers, seconded by Councilwoman Garis and carried unanimously.

- Regular Meeting of 8/21/12-PULLED
- Special Meeting of 8/31/12-PULLED
- Patrol Officer(s) – Councilman Rivers said he had a meeting with Chief Rossi and discussed last year’s overtime, saying it was at an all time low. During that time there were ten police officers. Currently there were nine officers; at the end of the year there would be one retiree and an officer promoted to sergeant. He said they would be talking later about potentially promoting another officer to sergeant. That would leave seven officers at the end of the year. Candidates were scheduled to be interviewed for officer – 52 candidates came in on November 4<sup>th</sup>; on December 4<sup>th</sup> interviews were scheduled to make a decision and they needed to come up with a number. At six or seven officers, they could not operate the police department as they were doing it. They were already running tours at two people instead of three. They needed to hire three officers for the first part of next year based on where they would be with overtime and the fact they could not operate with potentially six people on the street. He said they needed to decide how many people they planned to hire on December 4<sup>th</sup>.

Councilwoman Garis asked for clarification of his numbers for the end of the year. Councilman Rivers restated the count. He said he would discuss sergeants later in the evening which could potentially put them at six officers at the beginning of next year. Council President Shaw asked for historical information over the last three years.

Chief Rossi detailed the number of officers and administrative positions over the last three years and explained they were trying to bring the command staff to a reasonable level. He explained the twelve hour schedule and squad structure. He said that they were currently now working overwhelmingly two person tours and that it was dangerously low and they needed to do something right away; it was unsafe and unhealthy and an accident waiting to happen. He said that since some officers might have to attend the academy and might not be coming in for six months to start to work shifts. They needed to preplan this since it necessitated adjustments in the schedule to minimize overtime. He said it was dangerous to continue with anything less than where they were currently at seventeen and it was really wrong.

Councilman Rivers said the budget needed consideration – the base salaries of the two officers leaving would allow them to hire would allow them to hire 4 plus officers and be budget neutral even under the current contract. Even if they hired three, there was still a savings and that did not include vacation and holiday pay.

Councilwoman Garis asked the Chief what the bare minimum was he would consider to run an efficient department. Chief Rossi said he wanted to get to a situation where he felt comfortable enough to have four person squads and a lieutenant and captain to give them the latitude to do the essential training. He said they were rolling the dice and did not train at all last year except for mandated training. He explained that in-service training was essential to the departments’ safe operation. He mentioned law suits related to police departments – the two essential components that caused lawsuits were supervision and training and right now they were lacking in both. He said they had been very cooperative with the budget and the officers were working a lot harder than they ever did but asked how long it could go on. He said he thought they were at a breaking point that they needed to make an adjustment and do what was in the best interests of the people of the community.

Council President Shaw asked Chief Rossi if they had ever in their history operated with seven patrol officers. The Chief said he would have to think about it but whatever they were confronted with, they had to deal with but did not know how they could do it. He said the problem was working the 12 hour schedule for more than two or three days was more than enough. They have had situations where they had to order officers to work because they would not even volunteer to work and it was an unhealthy and unsafe situation – you would have officers working four or five 12 hour shifts in a row – it was wrong and characterized a path of destruction. Sooner or later people needed their time off. He said having seven officers was a disservice to the police department and community.

Councilman Worthington asked about the composition and number of squads. Chief Rossi explained that when there was a deficiency in a squad, they put a platoon together which was two squads. With an overstaffed shift on a squad and understaffed shift on another squad in the same platoon, they would order an officer to fill the void to balance out and minimize overtime. They had been doing this for a long time even with an eight hour schedule.

Council President Shaw asked the Chief if the optimal situation was to have twelve patrol officers. Chief Rossi said he thought the Borough ordinance said thirteen. If they had three officers going into next year they would certainly be able to sustain themselves. He wanted four and thought it was necessary but they could make it work with three – it would be a healthy schedule and would enable them to sustain themselves with some normalcy and allow them to schedule some training. They would go from being a reactionary department to being proactive.

Councilman Rivers asked about the age of the force and how many officers could currently retire. The Chief responded that there were five officers who could retire.

Councilwoman DiPaola asked about the probability they would lose one more officer in the next year. Chief Rossi said his feeling was that in the next year someone would leave. She thought the probability of losing more than one or two was not that great considering they had just done promotions and did not think anyone was leaving after just getting promoted. He said that under normal circumstances, he would agree however with state issues such as pensions, etc. there were other adverse effects to retirees that were forcing people out the door. No one wanted to lose money or percentages and how they state would limit things to retirees in the future – that could force two new retirees.

Councilwoman Garis asked if they had to decide an exact number that evening because maybe one officer would stand out at the interviews and they might not be satisfied with the other candidates; however four might stand out. Council President Shaw said they needed to come up with a number because of the notice requirement and there was a lot of preparation in anticipation of the correct number. The department would interview and interview a certain number of candidates which would impact the process. The pool would be bigger if they were hiring more and they needed the opportunity to prepare for that. Councilman Rivers agreed with Council President Shaw – if they were going to hire one candidate, did they want fourteen candidates in. If they were hiring two or three, they probably would. Chief Rossi said they received 130 resumes and they were looking for the best. He explained the evaluation process during the probationary period and promised if the person they hired was not the same person during the probationary period, he would not feel comfortable giving someone a job for 25 or 30 years and he would sever ties and find someone else.

Councilwoman Worthington asked if there were fifteen officers at the end of 2012 and if five were eligible for retirement, 30% of the institutional knowledge of the department. The Chief confirmed this.

Councilman Rivers proposed hiring three officers. Council President Shaw agreed with his recommendation, based on Councilman River's dealings with the police department and the operation, training and safety of the department and the Chief's comments. He added that the economic impact would be budget neutral. He said they picked the Chief because they trusted him and if the Chief said this was what was required, they would be hard pressed not to accept his recommendations.

Councilwoman DiPaola said her understanding when they started the interview process was they were hiring one officer. When she saw it on the agenda, she thought they were going to be asked to hire two. She was a little taken aback that they were being asked for four but they could settle for three. She added that if she could be assured without a shadow of a doubt that this was completely budget neutral and would not make taxes go up, she would agree to it. But if it was not budget neutral, she thought they would need to look at it a little further. She said the next item on the agenda was another promotion; she thought they had the finest police department in Bergen County, if not in the United States, but they were trying to keep their budget under control.

Councilman Worthington said his understanding was that if they were going to bring on four, it would be budget neutral. Councilman Rivers said that was correct. Councilman Worthington said they were recommending three. Councilman Rivers said that was correct. Councilman Rivers explained that if they just looked at base salaries of the two leaving which was less than \$250,000 combined, and the first step in the contract was \$44,000, that times three did not equal \$250,000. Council President Shaw said if they took into consideration the step increase in the promotional process that would not even come close to matching the loss of the two officers. Councilman Rivers said from a scheduling standpoint, there would be a lot less vacation and holiday pay for new hires. He said it would be a cost reduction. He said overtime was up with fewer officers and when they took out more officers, the number went up exponentially. Tours were short, people were overworked, people doing a job and carrying a gun having worked 60 hours in a week patrolling, and investigating; to him it made sense.

Councilwoman Garis asked under which contract they would be hired. Councilman Rivers said they would be hired at the beginning of next year but would not say if it would be under the new contract since he did not know if the contract would be written and executed by the beginning of 2013. Councilman Rivers said his numbers were based on using the current contract. Councilwoman Garis said her understanding was that the contract ended at the end of 2012 so there would be no contract starting in January. Mr. Scarpa said those terms would carry over because it could take four months, a year, it could possibly go to arbitration and they could have people working a year – that was not the way it worked. Councilwoman Garis asked if there could be an agreement where they would be hired contingent on the new contract. Mr. Scarpa said there could not; it would have to be under the current contract.

Councilman Rivers said that when they originally started talking, they anticipated having the contract done by the end of the year; both parties were working in good faith. But it was not the middle of November and he could not in good faith tell them that it would be done by the end of the year.

☞ **Motion** to approve the hiring of three new police officers as part of the process for interviews was **moved** by Councilman Rivers, seconded by Councilman Worthington and carried by roll call vote of 6-0:

**RC: Council members:**

**YES:** Garis, Worthington, Rivers, Shaw, Knoller, DiPaola

Mr. Scarpa asked if three candidates per position would be sufficient for interviewing on December 4<sup>th</sup>. Chief Rossi agreed. Councilman Rivers said the candidates had gone through a rigorous process, including written and physical testing, a first round of interviews, a second round of two days of interviews and thought it might be tough to find nine. He did not want to go to twelve or fifteen. Council President said that when they hired one officer, they had five candidates, but his inclination was to have four per spot. Councilwoman Garis and Councilwoman DiPaola agreed. Councilwoman DiPaola proposed a special meeting. Councilman Rivers said he had already informed everyone. Chief Rossi said his recollection was that at the time of the previous hiring, they were undecided about the number of officers being hired. He would go along with however many candidates they decided. Council President Shaw thought that four per spot would be most beneficial. Chief Rossi said that the pool of 52 people would be narrowed to 16 for interviews at the end of November. A lot were going through the process in other communities so a few might take other positions. Mr. Scarpa suggested that if there were only be 10 good candidates after the next round of interviews; then why present 12 then. He recommended using their judgment and try to get them to 12. The Governing Body agreed.

The Governing Body discussed whether to hold a special meeting and decided to hold the meeting earlier with the Closed Session first. Mr. Scarpa suggested keeping the agenda light for that meeting. They agreed to begin at 6:30 on December 4<sup>th</sup>.

## VII. NEW BUSINESS

- Emergency Exigency #187-12 – Generator

☞ **Motion** to approve Emergency Exigency #187-12 – Generator was **moved** by Councilwoman DiPaola, seconded by Council President Shaw and carried by roll call vote of 6-0:

**RC: Council members:**

**YES:** Garis, Worthington, Rivers, Shaw, Knoller, DiPaola

- EMS Contract – Councilman Rivers said that Fuchs EMS had been working during the daytime weekday hours and it had been a very positive thing for the emergency management of the town with one or two exceptions. He wanted to consider extending their contract for the safety of the town and so they could continue with the service they have had. Councilwoman DiPaola asked if they were willing to continue on the same terms. Council President Shaw said so far, yes. Councilman Rivers said that would be a conversation they would want to have with them and start that process. Mr. Scarpa said it ended December 31<sup>st</sup> and would need Council consensus. Council President Shaw said there was an appropriate authority meeting recently and Chief Rossi had reported about the cooperative nature, effectiveness and satisfaction of the Fuchs agreement. He said they filled a need in the Borough and felt it should be pursued. Mr. Scarpa suggested negotiating to continue the contract under the same terms.

☞ **Motion** to go into discussions to extend the contract with Fuchs for another year was **moved** by Councilman Rivers, seconded by Councilwoman DiPaola and carried unanimously.

- Additional Sergeant Promotions – Councilman Rivers requested that this item be moved to Closed Session.

☛ **Motion** to add the discussion Additional Sergeant promotions under Personnel to the Closed Session Resolution #198-12 was **moved** by Council President Shaw, seconded by Councilman Worthington and carried unanimously.

- Release of Maintenance Bond Fee Escrow to Grand Investments for \$22,232.00 – Mr. Scarpa said it had been posted on November 29, 2010 and the agreement was to return it after two years. Borough Engineer Berge Tombalakian had done a final inspection and approved the release of the money.

☛ **Motion** to release maintenance bond fee escrow to Grand Investments of \$22,232.00 was **moved** by Councilwoman DiPaola, seconded by Councilman Worthington and carried unanimously.

- Parking Meters – Councilman Rivers explained that Chief Rossi had brought this item to their attention. Emerson Plaza East had no meters or revenue coming in from the approximately 30 non-resident parking spaces. He had asked Mr. Scarpa to look into installing parking meters. The cost per unit was \$9,000 to \$12,000; there were things that could be added that would allow it to be easily monitored and maintained and controlled how they were used. He said at the higher end, police officers could remotely check which spaces were expired. He said if they were filled up through the work week, at a dollar per day, they would make \$7,500 off the spaces and more than likely they would charge more than that. Area towns with metered parking like Westwood or Ridgewood had much higher fees. He said a unit could be paid for within the first year and anything on top of that would be additional revenue. He noted that it did not include potential revenue from citations for overdue meters. He added this was just a start as they looked at other ways to generate revenue for the town. He thanked Chief Rossi for bringing it to his attention and Mr. Scarpa for researching it. He wanted to move forward with this as quickly as possible. The total cost including striping and numbering would be less than a thousand dollars. Council President Shaw said it seemed an economic no brainer because they were going to charge more than a dollar day.

Councilman Rivers said there was not another town around that allowed for free parking. People were coming from all over the area because they had a close train. Councilwoman DiPaola asked if they were only interested in the 30 spots on Emerson Plaza East. Councilman Rivers said it was a good start. Councilwoman DiPaola asked where the money would go and suggested using it for a town picnic. Councilman Rivers said it was not earmarked for anything but was a positive for the town no matter what. Mr. Scarpa said it would go into surplus. Council President Shaw said it was an infrastructure necessity; a way to regulate that area a little more and have the ability to draw revenue from it. Mr. Scarpa said the meters were solar powered and used all over the world, including New York City. Mr. Mooney stated that they would need to tweak their parking ordinances.

Councilman Worthington asked about resident parking Councilman Rivers explained that there was resident parking there and also in the Borough Hall back lot that would not go away. Councilwoman DiPaola asked about residents parking in the metered lot. Councilman Rivers explained that those spots would be designated as paid spots so residents would have to find alternate places to park or pay for the spot.

Chief Rossi said there were 38 spots there, 31 parallel to the curb and 7 on an angle. Officer Savino had done studies on three days and ascertained that overall it was a majority of non-residents were parking in the spots; at most 10 residents were parking there out of the three day study. Councilman Rivers said they would designate a certain number for residents. Councilwoman DiPaola said she was wholeheartedly in favor of it.

Councilman Rivers said they would budget this for next year. The Governing Body consensus was to move forward. Councilman Rivers said the goal was to get it in as early as possible to get the benefit of paying it off as quickly as possible in 2013.

VIII. FINANCIAL BUSINESS:

- BAN Sale Report

**RESOLUTION NO. 188-12** OF THE BOROUGH COUNCIL OF THE BOROUGH OF EMERSON, IN THE COUNTY OF BERGEN, NEW JERSEY, COVENANTING TO COMPLY WITH THE PROVISIONS OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED, APPLICABLE TO THE EXCLUSION FROM GROSS INCOME FOR FEDERAL INCOME TAX PURPOSES OF INTEREST ON OBLIGATIONS ISSUED BY THE BOROUGH OF EMERSON AND AUTHORIZING THE MAYOR, BOROUGH CLERK, CHIEF FINANCIAL OFFICER AND OTHER BOROUGH OFFICIALS TO TAKE SUCH ACTION AS THEY MAY DEEM NECESSARY OR ADVISABLE TO EFFECT SUCH COMPLIANCE AND DESIGNATING A \$2,067,400 BOND ANTICIPATION NOTE, DATED NOVEMBER 9, 2012 AND PAYABLE NOVEMBER 8, 2013, AS A "QUALIFIED TAX-EXEMPT OBLIGATION" PURSUANT TO SECTION 265(b)(3) OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED

☞ **Motion** to approve Resolution #188-12 was **moved** by Council President Shaw, seconded by Councilman Rivers and carried by roll call vote of 6-0:

**RC: Council members:**

**YES:** Garis, Worthington, Rivers, Shaw, Knoller, DiPaola

IX. INTRODUCTION OF ORDINANCES - None

X. ADOPTION OF ORDINANCE-Public Hearing

**Second Reading and Public Hearing:**

**1452-12 BOND ORDINANCE TO AUTHORIZE THE RESURFACING OF HIGH STREET (FROM PALISADE AVENUE TO THE VICINITY OF MAIN STREET) IN, BY AND FOR THE BOROUGH OF EMERSON, IN THE COUNTY OF BERGEN, NEW JERSEY, TO APPROPRIATE THE SUM OF \$163,000 TO PAY THE COST THEREOF, TO APPROPRIATE A STATE GRANT, TO AUTHORIZE THE ISSUANCE OF BONDS TO FINANCE SUCH APPROPRIATION AND TO PROVIDE FOR THE ISSUANCE OF BOND ANTICIPATION NOTES IN ANTICIPATION OF THE ISSUANCE OF SUCH BONDS.**

☞ **Motion** to open the meeting to comments from the public on Ordinance #1452-12 was **moved** by Council President Shaw, **seconded** by Councilman Rivers and carried.

Seeing no hands, Mayor Colina asked for a motion to close the meeting to comments from the public on this ordinance only.

☞ **Motion** to close the meeting to comments from the public on Ordinance #1452-12 was **moved** by Council President Shaw, **seconded** by Councilman Rivers and carried.

☞ **Motion** to adopt Ordinance #1452-12 on second reading was **moved** by Council President Shaw, seconded by Councilwoman DiPaola and carried by roll call vote of 3-0:

**RC: Council members:**

**YES:** Garis, Worthington, Rivers, Shaw, DiPaola

## XI. REPORTS

- Borough Administrator Joe Scarpa suggested looking at the commuter parking ordinance at the Senior Center/Library parking lot because there had been an issue with both groups concerning lack of parking. He suggested eliminating the commuter spaces there and placing them elsewhere. The unsafe hilled areas on Park Avenue had been double striped based on a suggestion of resident Tom Lahey. There was no update regarding Kinderkamack Road. He discussed a bill in Trenton addressing the business personal property tax that Verizon paid all towns where they had buildings. He explained they did get tax revenue at this point, but Verizon was trying to eliminate it. He said it would be beneficial to pass the resolution supporting the legislation. The Borough had received their recycling tonnage grant of \$17,452 for 2010.
- Borough Clerk Carol Dray had no report.
- Borough Attorney Scott Mooney reported on correspondence from Russ Huntington, Esq. who was representing Creative Laminating, Inc. at 32 Bland Street. The owners were looking to lease the property but the only prospective tenants had been fitness and personal training type of operations. That area was not zoned for that. Mr. Huntington recommended taking it to the Planning Board to give a variance. Alternately, the Governing Body could adjust the code to make it a permitted use. Mr. Mooney recommended sending it to the Land Use Board for a vote.

Councilwoman DiPaola asked if Mr. Mooney wanted the Land Use Board to change the zone. He said no, but to grant a variance. Councilwoman DiPaola said that the letter noted that the reason they could not rent was because no one wanted to go before the Land Use Board for a variance. She added that at Thursday's Land Use Board meeting agenda, they had possible zoning changes to a lot of different areas in town and they could add it to the agenda and get a recommendation to bring back to the Governing Body for approval. She said the Board was thinking that different areas of town were sectioned incorrectly. She gave Emerson Animal Hospital as an example that needed to be turned into the Central Business District. She asked Ms. Dray to notify Land Use Board Secretary Barbara Looney to add it to the agenda. Ms. Dray agreed. Mr. Mooney said he would notify Mr. Huntington that it was in the works. Councilwoman DiPaola asked if Construction Code Official Mike Sartori had seen it. Mr. Mooney said he would notify Mr. Sartori as well.

Councilwoman DiPaola asked Mr. Mooney when he found out about the potential litigation concerning the minutes and that it could not be discussed that evening. Mr. Mooney said it was ongoing. She asked why it was not on Closed Session for an update. Mr. Mooney explained that it was because he had recused himself from it. She asked how he knew about the potential litigation. Mr. Mooney said he had seen the correspondence. She said when someone was recused from something she asked if he would still receive correspondence. Mr. Mooney said yes. She asked who would be updating the Governing

Body and when. He said he presumed Labor Attorney Ron Gordon would when he came in December.

Councilwoman DiPaola said that he had made a comment that he did not have to answer to her; she represented the taxpayers of Emerson and thought if anyone on the Governing Body asked him something, she thought he could give them an answer out of courtesy. Mr. Mooney asked if he needed to let the Governing Body his schedule every day. She responded that if she thought she asked him a direct question as to whether or not he had a meeting regarding this topic, he would answer her yes or no. Mr. Mooney said that was not what she asked. Councilwoman DiPaola asked if he had a meeting regarding this topic. Mr. Mooney said he was in the building that day. She asked if he had a meeting regarding this topic that day. Mr. Mooney said he was finished with his report. Councilwoman DiPaola asked for an answer to her question. Mr. Mooney said he was not answering it. She asked why. He said he was not. She asked if he couldn't tell her whether he had a meeting or not today regarding the topic.

Mayor Colina stated that the Borough Attorney chose not to answer that question. He said that as a newly elected Mayor he was advised by Mr. Scarpa that Closed Session represented the opportunity to talk about legal, personnel and real estate matters. He said his understanding was that once they got to those issues, it belonged there. For them to sit there and push on potential litigation, whatever those particular issues were, Mr. Mooney was the Borough Attorney and he believed that they needed to exercise discretion as they talked about those sensitive issues that were deemed necessary to be discussed in Closed Session. He wanted to make sure they were in sync because if not, maybe they needed to clarify or maybe he needed to be further educated. Councilwoman DiPaola asked the Mayor if he was aware of the new issues regarding the minutes and the reason they were pulled off the agenda. Mayor Colina said that per the Borough Attorney's answer he declined to answer that question as well. Councilwoman DiPaola responded that there was no transparency now. She said it was a simple question – was he aware of the reasons why this topic that had been on the agenda several times that they thought they were going to come to a culmination tonight was removed from the agenda for possible litigation. She said it was a new facet of the potential litigation and wanted to know who knew about it because she did not know about it. Mayor Colina asked if she was assuming that it was going to come to a conclusion that night. Councilwoman DiPaola said they had gone over the minutes at the last meeting, two sets. Mayor Colina said yes, they had gone over the minutes for how many meetings. Councilwoman DiPaola said no they had not gone over the minutes for so many meetings; they had tabled the minutes twice. They had gone over the minutes and did corrections to the minutes at the last meeting. They were corrected and they were given the draft changes after the last meeting. Everyone received them. Mayor Colina corrected something she said –the minutes were corrected but they weren't approved. She said they were not approved but corrected; they had gone over them in public as Roberts Rules of Order said was done, were sent copies for review and that night were to discuss how they were going to go forward with handling the minutes. Mayor Colina said they could still do that but it was a separate issue. Councilwoman DiPaola asked to finish her thought before she was interrupted. She continued they were supposed to go through with the thought process of how they wanted to go forward – whether they were going to retain the recordings, how they were going to do it, whether they were going to be subjective and all of a sudden, they got a final agenda at 4:30 and did not understand why if there was an issue with those items being on the agenda, why the revised agenda did not have that pulled or they were not added to the Closed Session agenda for the whole Governing Body to know because in her opinion she believed that other people knew what this potential litigation was regarding the minutes all of the sudden because it was a new topic.

Mayor Colina asked that when the Borough Attorney said potential litigation she was thinking she needed to have it spelled out and if it was potential litigation maybe there was not litigation and could not answer what was right to say when he said potential litigation. Councilwoman DiPaola asked if he was aware, she was not asking him to explain it. Mayor Colina said he was aware that there was potential litigation. She asked if he was aware of why these minutes that were on the agenda since last Thursday were suddenly part of the potential litigation specifically. Mayor Colina said specifically no. She asked if he understood why he suddenly was pulling the minutes. The Mayor said no and said that was why when they talked about legal ramifications of something and direct the Borough Attorney to review it, someone might ask to discuss the appropriateness but since they directed the attorney to get into it, he would say that it was probably not appropriate to talk about because the Borough Attorney had been directed to do so; in other words, end of discussion. He added that it did not mean than anyone had been rude, it meant that he wanted to make sure he understood what went to Closed Session. He said since the Borough Attorney said potential litigation was associated with this particular item that was his understanding. Councilwoman DiPaola asked for clarification as to why when they received a revised final agenda at 4:29 if the Borough Attorney knew it was going to be an issue and could not be discussed in open, why it was not pulled and this had to happen the way it did, that there was a shock in the meeting. Mayor Colina asked if there was a shock in the meeting. She said yes, she was shocked. Mayor Colina said the Borough Attorney was in court. She responded that he said he was in court all day and then he said he was in the building, and asked if he was in court all day or was he in the building. Mayor Colina said he was not on the witness stand and she was not an attorney. He said the Borough Attorney had given her the information that he chose to give her. She asked to move on. The Mayor thanked her.

- Mayor & Council

Councilwoman DiPaola had no report.

Councilman Knoller said that Deputy Clerk Jane Dietsche had been doing a great job on website, posting a lot of important information and had provided web statistics to the Technology Committee. From October 28<sup>th</sup> through November 1<sup>st</sup> there were 1711 visits, 59.4% new visits, unique visits totaled 1280. He thought that was significant because the borough website had great information and did see a spike in people going to the site for information. He thought that helped people get information they were looking for to prepare for the storm, what to do, where to go.

Councilwoman DiPaola asked if any Swiftreach messages were sent. Councilman Knoller said two were sent and they worked very well too. Councilwoman DiPaola said she was signed up. Councilman Knoller said an additional 100 new members had signed up to the system and there were 10 new Twitter followers. Councilman Rivers said that that fact that Councilwoman DiPaola put in two numbers and did not get a call should be checked into. Councilman Knoller said he would take a look and follow up.

He reported on the Recreation Commission which was looking into safety issues for the Borough. One of the members was looking into lightning detection systems. He said OEM Coordinator, Officer Mark Savino has also been doing that as well as Ms. Dray. He thought next week they should combine the information and move forward on what he considered an important safety system for all residents and kids on the fields. Councilman Rivers said he had spoken with Dr. Nisonoff and they had also been researching the cost

to do the three fields in town. He recommended including them as well as they were willing to discuss potentially splitting up the cost and help try to find grants.

Councilwoman Garis sent out a personal thank you to all the emergency services, first responders, **DPW** for all their hard work during Hurricane Sandy. He said the **Emerson Volunteer Ambulance Corps** had two ambulances in service ready to respond and additional members available in case they were needed. She thanked them as well. **EVAC** held their annual food drive on October 7<sup>th</sup> at Shop Rite and collected a large amount of supplies and over \$500 in cash donations. The proceeds would be donated to local families, Shelter Our Sisters and Emerson Bible Church which would distribute to local families in need.

Councilman Worthington gave the October report for the Emerson Volunteer Ambulance Corps.

Councilman Rivers thanked all the emergency groups in town and said it was obvious they were all well prepared. He said OEM Coordinator Mark Savino did a fantastic job making sure everyone was prepared. He saw the Police Chief out the entire time and those guys were working double time. He added that the **Department of Public Works** did a fantastic job. There were trees and limbs down early and the DPW was out that evening removing trees and making sure the roads were safe. He also thanked the **Emerson Fire Department** which were prepared and kept Emerson safe that night and allowed them to come through the storm better than many other towns in the area. He gave the Police Department and Fire Department reports for October.

Council President Shaw had no report.

Mayor Colina gave kudos to Emerson's emergency services including OEM Coordinator Mark Savino and Deputy OEM Coordinator and DPW Superintendent Joe Solimando. He said they did a fantastic job. He said Emerson dodged a bullet in terms of severity of the storm's predictions. A number of houses were hit by trees and power issues continued to burden residents. He said last Wednesday was the first time power was back for 100% of residents. He said they learned a lot and thought it was the new normal, given this was the third major storm in the last 15 months. He said they would have a post mortem meeting in the near future. He said they were so appreciative and the residents were as well and they were very patient. He said they would follow up on their Swiftreach sign ups to make sure everyone was being notified. He said he had conversations with the Board of Education on lightning detection systems; he and Council President Shaw were scheduled to meet with Dr. Nisonoff and staff members to talk about ways to gain efficiencies and move forward.

The Mayor said one of the most heartening things about the storm was when the solicited volunteers to come on Tuesday to pass out information by hand since so many people were without communication and within a short time they had 80 to 100 people in the Council Chambers who distributed 1500 flyers to residents in the areas of town with outages. He said Dr. Nisonoff participated in reaching out to some of his staff and student body as well. He said as they faced more emergencies in the future it would take that collective community effort – Board of Education, Governing Body, the Borough – it was all for the community.

XII. PUBLIC COMMENT

Members of the public are welcome to speak on any topic by coming to the table and stating your name and address for the record. In the interest of time, speakers are limited to five (5) minutes. In consideration of all who may wish to speak, please keep your comments brief and concise.

☞ **Motion** to open the meeting to comments from the public was **moved** by Councilwoman DiPaola, **seconded** by Councilwoman Garis and carried.

DPW Superintendent Joe Solimando discussed a four foot storm drain line near the parking and said there was not a lot of room.

OEM Coordinator Mark Savino thanked the Mayor and Council and Mr. Solimando for all working together to make everything happen. He said that if Councilwoman DiPaola gave him her phone numbers, he would look into it. He discussed a FEMA meeting that would take place on Thursday where Emerson could apply for public assistance. He said the generator was an included item and they should get back at least 75% of the cost.

☞ **Motion** to close the meeting to comments from the public was **moved** by Councilwoman DiPaola, **seconded** by Councilman Rivers and carried unanimously.

XIII. RESOLUTIONS ON CONSENT AGENDA NO. 189-12

☞ **Motion** to approve Consent Agenda #189-12 was **moved** by Council President Shaw, **seconded** by Councilman Rivers and carried by roll call vote of 6-0:

**RC: Council members:**

**YES:** Garis, Worthington, Rivers, Shaw, Knoller, DiPaola

- Ca 190-12 Approve Tax Overpayment in the amount of \$2,727.88 for Block 407 Lot 1-CH
- Ca 191-12 Authorize Participation in the Pascack Valley Coop Pricing System Program for Utility Bill and Insurance Verification Audit and Potential Cost Recovery Contract
- Ca 192-12 Chapter 159 State Recycling Grant in the sum of \$17,452.34
- Ca 193-12 Approve Transfer of Funds
- Ca 194-12 Approve Bill List
- Ca 195-12 Approval of Items of Revenue and Appropriation NJS 40A:4-87 – Body Armor Grant in the sum of \$1,988.62
- Ca 196-12 Approve Tax Appeal Adjustments
- Ca 197-12 Tax Court Judgment Refund – Block 612, Lot 1 - 47 Allison Way

XIV. CLOSED EXECUTIVE SESSION - Resolution No. 198-12

☞ **Motion** to go into an executive session to discuss matters exempt from the public as duly noticed by Resolution No. 198-12 was **moved** by Councilman Rivers, **seconded** by Council President Shaw and carried by roll call vote.

**RC: Council members:**

**YES:** Garis, Worthington, Rivers, Shaw, Knoller, DiPaola

- |              |                          |                 |
|--------------|--------------------------|-----------------|
| #12-11/13-27 | Personnel-DPW Interviews | N.J.S.A 10:4-8  |
| #12-11/13-28 | Personnel-EVAC           | N.J.S.A. 10:4-8 |
| #12-11/13-29 | Litigation-Hamparian     | N.J.S.A. 10:4-7 |
| #12-11/13-30 | Personnel – Police Dept. | N.J.S.A. 10:4-8 |

XV. RECONVENE

☞ **Motion** to reconvene was **moved** by Council President Shaw, **seconded** by Councilman Rivers and carried.

☞ **Motion** to continue with the promotional process for sergeants and continue by promoting two additional sergeants effective January 1 was **moved** by Councilman Rivers, **seconded** by Councilwoman DiPaola and carried by roll call vote of 6-0.

**RC: Council members:**

**YES:** Garis, Worthington, Rivers, Shaw, Knoller, DiPaola

Chief Rossi said the promotions were effective that evening and asked if they would be neutral until January 1<sup>st</sup>. Councilman Rivers confirmed that it would be the same as they did with the others. Chief Rossi suggested the swearing in take place at the second December meeting. Councilman Rivers agreed. Chief Rossi announced that Officer Mark Savino and Detective Michael McDermott were promoted to the rank of sergeant.

☞ **Motion** to promote to sergeant Mark Savino and Mike McDermott with salary effective January 1<sup>st</sup>, 2013, with the promotion effective immediately was **moved** by Councilman Rivers, **seconded** by Council President Shaw and carried by roll call vote of 6-0.

**RC: Council members:**

**YES:** Garis, Worthington, Rivers, Shaw, Knoller, DiPaola

Mr. Mooney clarified that they did finish second and third, not necessarily in the order the Chief announced.

☞ **Motion** to hire effective immediately as road laborer for the Department of Public Works Phillip J. Mazzo III was **moved** by Council President Shaw, **seconded** by Councilwoman DiPaola and carried by roll call vote of 5-0.

**RC: Council members:**

**YES:** Garis, Worthington, Shaw, Knoller, DiPaola

**ABSTAIN:** Rivers

XVI. ADJOURNMENT

With no other business to address, at the request of Mayor Colina, a motion to adjourn was **moved** by Council President Shaw, **seconded** by Councilman Rivers and carried at 11:51 p.m.

Carol Dray, RMC/CMC/CMR  
(Proofed xx/xx/12)

November 20, 2012