



MINUTES
BOROUGH OF EMERSON
MAYOR AND COUNCIL
July 12, 2016
7:30 P.M.
Borough Hall-Council Chambers
Emerson, NJ 07630



I. CALL TO ORDER

Mayor Lamatina called the meeting to order at 7:30 p.m. and identified the emergency exits.

II. ROLL CALL

Mayor Lamatina asked Ms. Dietsche to call the roll of the Governing Body.

Present: Mayor Lamatina, Councilwoman DiPaola, Councilman Downing, Council President Knoller, Councilman Lazar, Councilman Tripodi, Councilman Worthington

Also present were Borough Administrator Robert S. Hoffmann, Borough Attorney Wendy Rubinstein and Borough Clerk Jane Dietsche.

III. EXCUSED ABSENCE OF GOVERNING BODY MEMBER

- Councilman Worthington for his absence from the Regular Meeting of June 28, 2016

☞ **Motion** to excuse Councilman Worthington for his absence from the Regular Meeting of June 28, 2016 was **moved** by Councilwoman DiPaola, **seconded** by Council Tripodi and carried unanimously.

IV. PROCLAMATIONS & CITATIONS

Mayor Lamatina announced that there were no proclamations or citations.

V. APPOINTMENTS/RESIGNATIONS

Mayor Lamatina announced that there were no appointments or resignations.

VI. MINUTES FOR APPROVAL

- Regular Meeting Minutes of June 28, 2016
- Closed Session Meeting Minutes of June 28, 2016

☞ **Motion** to approve the Regular and Closed Session Meeting Minutes of June 28th, 2016 was **moved** by Council President Knoller, **seconded** by Councilman Tripodi and carried unanimously.

VII. CORRESPONDENCE

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

- Letter dated June 2016 from Woodbridge Twp. Mayor John E. McCormac; Re: NJ Senior Olympics, September 9-11
- Letter dated June 23, 2016 from Joseph Tempesto, President, League of Municipalities; Re: 19th Annual Elected Officials Hall of Fame
- Letter dated July 5, 2016 from Peter Grefath, WCGO Chairman; Re: Westwood Charity Golf Outing on Thursday, September 8th
- Email dated July 6, 2016 from Robike Noll-Faries; Re: Just Pups
- Email dated July 6, 2016 from Jonathan Bressler; Re: Request to reject license renewal to Just Pups
- Email dated July 6, 2016 from Janice Fisher, Puppy Mill Awareness Campaign Coordinator; Re: Just Pups breeding facility
- Email dated July 6, 2016 from Janice Fisher, Puppy Mill Awareness Campaign Coordinator; Re: Just Pups breeder inspection reports
- Email dated July 5, 2016 from Anthony Andrade, Community Outreach Specialist, Office of the Bergen County Clerk; Re: Emerson Historic Presentation by John Hogan
- Letter dated July 7, 2016 from Gary Ascolese, P.E., Boswell Engineering; Re: Transportation Trust Fund/Local Aid Projects – Shut down order – Linwood Avenue Y Main Street, Sections 2 & 3

VIII. FINANCIAL BUSINESS

- Resolution No. 192-16 Bill List

☞ **Motion** to approve Resolution No. 192-16 Bill List was **moved** by Councilman Worthington, **seconded** by Councilwoman DiPaola and carried by a roll call vote of 6-0.

RC: Council members:

YES: DiPaola, Lazar, Downing, Knoller, Tripodi, Worthington

- Resolution No. 200-16 Confirm Actions Taken by Borough Attorney to File an Action, as well as Prepare and Answer Lawsuit Filed Against the Borough of Emerson and Borough Clerk

☞ **Motion** to approve Resolution No. 200-16 Confirm Actions Taken by Borough Attorney to File an Action, as well as Prepare and Answer Lawsuit Filed Against the Borough of Emerson and Borough Clerk was **moved** by Council President Knoller, **seconded** by Councilman Downing and carried by a roll call vote of 5-1.

RC: Council members:

YES: Lazar, Downing, Knoller, Tripodi, Worthington

NO: DiPaola

IX. UNFINISHED BUSINESS

- Feedback on COAH letter – Mr. Hoffmann discussed a COAH letter he was drafting and noted that updates would be necessary because of good news received the previous day from the court regarding the gap period. Assemblywoman Schepisi had provided the Governing Body with an analysis of the decision and he planned to discuss the latest information with the Borough Attorney and Borough Planner. He would provide further explanation at the August 16th meeting.

X. NEW BUSINESS

- My Emerson Newsletter Discussion – Mr. Hoffmann and the Governing Body discussed who should be the editor of the My Emerson newsletter. Mr. Hoffmann explained that the current issue was at the printer but was on hold waiting for confirmation. Governing Body consensus was that Mr. Hoffmann was the editor but asked that the content comply with the Borough's social media policy. In addition they requested the ability to review content earlier in the process to allow for comments before the newsletter was printed and distributed.

XI. INTRODUCTION OF ORDINANCES

Mayor Lamatina announced that Ms. Dietsche would read the following ordinance by title and it would be further considered at a Public Hearing to be held on August 16th, 2016 at 7:30 p.m. in the Council Chambers of the Borough Hall, Municipal Place, Emerson, N.J. and published by title in the July 15, 2016 edition of the Ridgewood News. He added that this ordinance was on file in the Clerk's Office and posted on the official bulletin board of the Municipal Building where copies would be available to the General Public at no charge.

First Reading:

1529-16 AN ORDINANCE OF THE BOROUGH OF EMERSON AUTHORIZING THE EXECUTION AND DELIVERY OF A FINANCIAL AGREEMENT BY AND BETWEEN THE BOROUGH OF EMERSON AND EMERSON REDEVELOPERS URBAN RENEWAL, LLC

☞ **Motion** to introduce Ordinance #1529-16 on first reading was **moved** by Council President Knoller, **seconded** by Councilman Lazar and carried by a roll call vote of 5-1.

RC: Council members:

YES: Lazar, Downing, Knoller, Tripodi, Worthington

NO: DiPaola

XII. ADOPTION OF ORDINANCES

Second Reading & Public Hearing:

1528-16 AN ORDINANCE CREATING AND ESTABLISHING A NEW CHAPTER XX OF THE CODE OF THE BOROUGH OF EMERSON ENTITLED, "MOTION PICTURE FILMING"

☞ **Motion** to open the meeting to comments from the public on Ordinance #1528-16 only was **moved** by Councilwoman DiPaola, **seconded** by Council President Knoller and carried at 7:46 p.m.

Seeing no hands, Mayor Lamatina 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 #1528-16 only was **moved** by Councilman Lazar, **seconded** by Council President Knoller and carried at 7:47 p.m.

☞ **Motion** to adopt Ordinance #1528-16 on second reading was **moved** by Councilman Downing, **seconded** by Council President Knoller and carried by a roll call vote of 6-0.

RC: Council members:

YES: DiPaola, Lazar, Downing, Knoller, Tripodi, Worthington

XIII. REPORTS

- Mayor and Council

Councilwoman DiPaola welcomed the people in the Council Chambers and said she wished the moment of silence had been in remembrance of the five police officers slain in Dallas and the victims of the shooting in Orlando. She noted that the Board of Health was on hiatus for the summer and had not deliberated on items on the agenda. She stated that the Shade Tree Commission was working with Ace Tree Surgeons to take down hazardous trees and was doing a great job.

Councilman Lazar said the Department of Public Works had cleaned out two sewer pumping stations in June with the Northwest Bergen Shared Service. These pumping stations serviced streets off Soldier Hill Road where residents were disposing of wipes which clogged the system. He said residents in that area had been alerted in the past and reminded residents that they should not flush wipes down the toilet but rather dispose of them in the trash to prevent backups and save money. In addition, the Department of Public Works had taken 141 calls since the last meeting and the water was being tested at Borough Hall.

Councilman Downing also remembered the five officers slain in Dallas and said that many of his friends were there now in support. The Volunteer Ambulance Corps was celebrating their 60th anniversary. He also gave the June report for the Volunteer Fire Department.

Council President Knoller thanked Mr. Hoffmann for initiating the first employee/volunteer lunch at Borough Hall and said it was a nice idea to recognize the Borough's volunteers and employees. He also gave the June report of the Police Department. He mentioned recent discussions related to posting for a Lieutenant position in the Police Department as well as upcoming retirements in the department and the need for succession planning. He requested that this item be added to the agenda.

☞ **Motion** to add posting for the Lieutenant position to the agenda was **moved** by Council President Knoller, **seconded** by Councilman Tripodi.

RC: Council members:

NO: DiPaola

It was determined that a single no vote would prevent an item from being added to the agenda causing the motion to not be considered.

Councilman Tripodi had no report.

Councilman Worthington had no report.

Mayor Lamatina said he had attended the ground breaking ceremony for the Veterans' Housing project on Main Street and thanked the Governing Body that preceded his term for getting this through. He noted that it was a wonderful project and said the building, which dated to the Revolutionary War period, would be renovated.

- Borough Administrator Robert Hoffmann reported on the following;
 - The Community Development Block Grant would be allocated primarily to drainage and repaving on Pine Drive at a requested amount of \$175,000. They would do the drainage in the first year, let the trench settle and pave the following year. They were also going to identify a couple other projects in the \$40,000 to \$50,000 range because they did not know how much grant funding would be available. They planned to apply for road work in areas recommended by the Borough Engineer and Superintendent of the Department of Public Works that would fit into that dollar amount. He noted that the grant application was due on October 7th.
 - He read two letters complimenting excellent customer service by Borough staff; one was written by Hank Groenewal and praised Construction Official Mike Sartori. The other letter was written by Lewis Tree Service and complimented CFO Lauren Roehrer who had resolved an escrow issue quickly after a long delay.
 - He was concerned about potential changes to the State's Best Practices Checklist which would put the Borough at risk of losing 100% of State aid. If these changes were put in place, the Division of Local Government Services would be able to go back and penalize municipalities for previous checklist shortcomings. He would be requesting a meeting with the DLGS Director because of the significant impact of these rule changes and would keep the Governing Body informed.
- Borough Clerk Jane Dietsche had no report.
- Borough Attorney Wendy Rubinstein reported that an interesting decision had just come down from the Appellate Division regarding the gap period related to affordable housing. She would report back on its impact to the Borough after she had an opportunity to review it.

XIV. PUBLIC COMMENT

☞ **Motion** to open the meeting to comments from the public was **moved** by Councilwoman DiPaola, **seconded** by Councilman Tripodi and carried at 8:02 p.m.

Jan Blau, 77 Hasbrouck Avenue said he was opposed to redevelopment and a payment in lieu of taxes program. He said the area was appropriate for commercial, not residential, development and asked the Governing Body to reconsider modifying the area for commercial development only.

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 Knoller, **seconded** by Councilman Tripodi and carried at 8:06 p.m.

XV. RESOLUTIONS ON CONSENT AGENDA NO. 193-16

☞ **Motion** to approve Consent Agenda No. 193-16 was **moved** by Council President Knoller, **seconded** by Councilwoman DiPaola and carried by a roll call vote of 6-0.

RC: Council members:

YES: DiPaola, Lazar, Downing, Knoller, Tripodi, Worthington

- Ca 194-16 Tax Overpayment in the amount of \$3,633.75 – 38 Dorchester Rd, Block 102, Lot 2
- Ca 195-16 Tax Overpayment in the amount of \$2,242.06 – 42 Eagle Dr, Block 303, Lot 21
- Ca 196-16 Resolution Requesting Approval of Items of Revenue and Appropriation NJS 40a:4-87 in the amount of \$1000.00 from the Association of New Jersey Environmental Protection
- Ca 197-16 Block Party Birch Street between Lincoln Boulevard and Park Avenue Saturday July 30th from 12 noon – 10 p.m. (Rain Date Sunday, July 31st)
- Ca 198-16 Disabled Veteran Property Tax Exemption – 24 Kensington Avenue, Block 510, Lot 7 – Stephen Donofrio
- Ca 199-16 Authorize the Preparation of a Grant Application for October 7, 2016 Boswell Engineering

XVI. LICENSE APPLICATION

- Just Pups LLC Pet Shop License Application for period from July 1, 2016 through June 30, 2017

The Borough of Emerson reserves the right to go into Closed Session to discuss procedural questions related to the License Application.

Anthony Arturi, Esq., counsel for Just Pups LLC gave an opening statement about the pet shop application submitted by Vincent LoSacco, owner of Just Pups LLC. He said he did not believe the Governing Body had the jurisdiction to vote on the license application and noted that there was a pending lawsuit both by Just Pups and by the Council in regards to that issue. He said there was no ordinance in the Borough Code that permitted the Mayor and Council to vote on a pet shop license as there was for a kennel. He added that Just Pups did not operate as a kennel and State law applied to the complete application that was submitted on June 29th.

Mayor Lamatina explained to Mr. Arturi that he was in court when the Judge stated that the Borough had every right to hear the license application and vote on it.

Ms. Rubinstein explained to the Governing Body that this was an application that was being brought to them. A State Statute dealt with the licensing of pet shops, kennels, shelters, etc. and under that statute they had taken the position that an application is submitted to the Borough Clerk. However, it was the Governing Body who would make the decision on an application for the establishment. She said they had asked Just Pups to make a statement on behalf of their application. They had also asked the Borough's inspection officials to be present so they could make statements and the Governing Body could question them as to compliance history and any other questions they may have. After the questions and answers between the applicant and the inspection officials occurred, the public would be given an opportunity to speak.

Mayor Lamatina, the Governing Body and Ms. Rubinstein questioned Mr. Arturi and Mr. LoSacco on items related to his application. In addition, Mr. LoSacco read a statement on behalf of the application and was further questioned by Mayor Lamatina, the Governing Body and Ms. Rubinstein.

At 9:36 p.m., Carol Tyler, Northern Regional Manager of Tyco Animal Control Services and Emerson's Animal Control Officer, and Darlene Mandeville, Registered Environmental Health Specialist with Northwest Bergen Regional Health Commission appeared before the Governing Body to present their findings and answer questions from the Governing Body, Ms. Rubinstein and Mr. Arturi. Mr. LoSacco commented in response to Ms. Tyler and Ms. Mandeville's statement.

At 11:26 p.m. Mayor Lamatina stated that there was an 11:30 curfew. He said that his preference was to continue the meeting to complete the evening's proceedings.

☞ **Motion** to extend the curfew until 12:30 a.m. with an option to extend it for another 15 - 20 minutes was **moved** by Councilwoman DiPaola, **seconded** by Councilman Downing and carried by a roll call vote of 6-0.

RC: Council members:

YES: DiPaola, Lazar, Downing, Knoller, Tripodi, Worthington

☞ **Motion** to open the meeting to comments from the public on this topic was **moved** by Councilwoman DiPaola, **seconded** by Councilman Downing and carried unanimously at 11:27 p.m.

Laura O'Connell, 3 Overlook Drive Avenue shared her personal experience with Just Pups explaining that her pet had many health issues and said that their license should not be renewed.

Janice Fisher, Manasquan commented on the puppy mill ordinance and said that a license should not be issued to Just Pups.

Steve Rogalinski, Saddle River commented on the health of his pet and dissatisfaction with Just Pups.

Betty Michelmore, Demarest said she had purchased a puppy from Just Pups and said that they should not be issued a license.

Barbara Desena, Fairview read a statement about puppy mills and requested that Just Pups not be issued a license.

Lisa Yakomin, Woodcliff Lake said the Governing Body should consider the pattern of chronic behavior by Just Pups in other jurisdictions and requested that they not be issued a license.

Maria Maceri, Paramus commented on Just Pups' violations and said their license should not be renewed.

Linda (inaudible) requested that Just Pups be denied a new license.

Robert Obernauer, 101 Linwood Avenue stated that Just Pups should be denied a new license and asked about summonses issued by the Health Officer.

Ryan Rogalinski said that Just Pups should be denied a new license.

Councilwoman DiPaola said she was a firm believer in government not getting involved in private enterprise or stifling someone from making a living, but after hearing the evening's testimony, her opinion was to not grant a license to Just Pups. She said her decision was based on the testimony of the professionals - Carol Tyler and Darlene Mandeville. There were so many reasons they were giving and gave Mr. LoSacco so many chances in order to comply and it seemed he did not want to comply. She did not understand it because he needed to make a living for his family and felt bad about that but she also felt bad for the puppies.

Councilman Lazar said that he listened very carefully to all the testimony given and felt bad about some of the things he heard being a pet owner his whole life. He explained that based on the testimony of professionals, the inspection reports, and the public, he did not recommend granting a new license to Just Pups.

Mayor Lamatina said he was offended that Mr. LoSacco waited until after the last June Council meeting to submit his application.

Councilman Downing said that after hearing overwhelming public opinion to deny Just Pups a new license, it was the Governing Body's responsibility to act accordingly and deny a new license to Just Pups based on the testimony and credibility of various witnesses.

Councilman Worthington said he had listened to the testimony and what was most concerning was that after the years that Just Pups had been in business, they could not figure out how to stay in compliance. He said they talked about regulations, heard about regulations changing to some degree, but they did not change all that much and from his perspective that was most concerning. He noted that this was not a new business trying to work things out after the first year. There were years and years and they couldn't get it done. He said this was seriously concerning to him.

Councilman Tripodi said that Mr. LoSacco had been operating with constant carelessness and negligence with all the unqualified employees. He said it was very concerning to him and he did not feel that Mr. LoSacco himself was qualified enough or cared enough to operate this kind of business. He said his personal opinion was that Mr. LoSacco probably had a good thing going for a long time and all good things had to come to an end. He added that by the yawning that Mr. LoSacco had been doing over the last 2 ½ hours, he did not know if he even cared. He said it was in the best interest of the dogs, the Borough and the State of New Jersey that they did not issue a license to Mr. LoSacco.

Council President Knoller agreed with the opinions of other members of the Governing Body. Based on what he had heard that night, it was disheartening that a lifetime Emerson resident would behave in the manner he did. He stated that Mr. LoSacco had no regard for his customers, his animals or the residents of Emerson. He was against the issuing a license.

Mayor Lamatina said that Roxy brought tears to his eyes.

- Resolution No. 202-16 Just Pups Denial of New License

☞ **Motion** to approve Resolution No. 202-16 Just Pups Denial of New License based on the evening's testimony was **moved** by Council President Knoller, **seconded** by Councilman Lazar and carried by a roll call vote of 6-0.

RC: Council members:

YES: DiPaola, Lazar, Downing, Knoller, Tripodi, Worthington

XIX. ADJOURNMENT

With no other business to address, at the request of Mayor Lamatina, a motion to adjourn was **moved** by Councilwoman DiPaola, **seconded** by Council President Knoller and carried at 12:46 a.m.

Respectfully submitted,

Jane Dietsche, RMC
Borough Clerk