



MAYOR AND COUNCIL MINUTES

Work Session/Regular Meeting

Executive (Closed) Session

Tuesday, August 5, 2008

7:30 P.M.

BOROUGH HALL COUNCIL CHAMBERS

Municipal Place

Emerson, NJ 07630

Call to Order

Mayor Lamatina called the meeting to order at 7:35 pm. Ms. Michalski 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 August 5th, 2008 had been adequately noticed and was in compliance to 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.

Roll Call:

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

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

6. APPOINTMENTS & PERSONNEL CHANGES

Appointments:

- Karen Browne – from Alternate to Regular Member of the Environmental Commission for the unexpired term ending December 31, 2010
- Randy Velez – Appointed as a permanent Patrol Officer to the Emerson Police Department

Mayor Lamatina appointed Karen Browne as a regular member of the Environmental Commission for the unexpired term ending December 31, 2010.

☞ **Motion** to approve the appointment of Mr. Randy Velez as a permanent Emerson Patrol Officer 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

Hoffman-Yes

7. OLD BUSINESS

a) Amending Chapter 248 - Streets and Sidewalks – Municipal Clerk Carol Dray explained that the ordinance should be reviewed and updated once again based on current standards adding that she had inserted the changes with the recommendations of the prior engineer back in 2005. Mayor Lamatina asked that it be forwarded to Borough Engineer Paul Niehoff and DPW Superintendent Joe Solimando for review and input in anticipation of introducing an amended ordinance at the next meeting.

b) Sale of Portion of Paper Street Property - Alma Avenue at Wortendyke Avenue & vacant land at 156 Palisade Avenue - Block 715, Lot 2 – Borough Attorney Phil Boggia explained that the paper street on Alma Avenue originally had an easement and the Borough would need to vacate. However, Palisade Avenue had a deed in the Borough's name so the Borough is free to sell it. A minimum bid would need to be set and the sale would be done by ordinance. The Governing Body consensus was to vacate one and place the other for public sale both by ordinance. Mr. Boggia would prepare the ordinances for the August 19th meeting.

8. ORDINANCES

First Reading:

1353-08 Determining Positions Eligible for the Defined Contribution Retirement Program

Mr. Scarpa explained that this ordinance was a requirement of the State.

☞ **Motion** to approve Ordinance No. 1353-08 on first reading was **moved** by Councilman Bair, **seconded** by Councilman Milone and carried by roll call vote.

RC: Council members:

DeSalvo-Yes

Bair-Yes

Milone-Yes

Heyer-Yes

Loffredo-Yes

Hoffman-Yes

Mayor Lamatina announced that Ordinance No. 1353-08 was duly approved on first reading and would be further considered at a Public Hearing to be held on August 19, 2008 at 7:30 p.m. in the Council Chambers of the Borough Hall, Municipal Pl., Emerson, N.J and published in the August 8th, 2008 edition of the Ridgewood News. Ordinance No. 1353-08 was on file in the Clerk's Office and posted on the official bulletin board of the Municipal Building.

9. NEW BUSINESS

- a) Approval to extend closing time of Farmer's Market to 2:00 p.m. – Mayor Lamatina stated that this request was placed by Chairperson Joan Martin of the **Environmental Commission**, asking that the street remain closed for another hour. Ms. Karen Browne, Mr. Tom Browne and Chairperson Joan Martin gave the Governing Body an update, noting that the Farmers' Market was doing so well that people were continuing to arrive and purchase items after the 1:00 p.m. closing. Ms. Martin asked for the extension so that there were no problems with the Police or neighbors. Police Chief Saudino stated that he anticipated no problems with extending the event by an extra hour. Topics discussed and reviewed were parking, pedestrian traffic and appropriate signage.

☞ **Motion** to extend the hours of the Farmers' Market until 2 p.m. on Sundays through November 9th, 2008 was **moved** by Councilman Bair, **seconded** by Councilman Milone and carried.

- b) Political signs – The Mayor stated that he had asked to put this on the agenda because the current political sign ordinance may be invalid. It was drafted in 2000 and was similar to the Franklin Lakes ordinance which had been ruled unconstitutional. The current ordinance allows political signs to be posted for a maximum of fourteen days; the size of signage was also an issue. He asked Mr. Boggia to study it to see if it should be amended or abolished. Councilman Loffredo noted that he thought that the time limitation was a free speech issue and unconstitutional. He did agree that there should be some discretion used for the placement of signs before an election and that a time limit for removing signs was appropriate after an election. The Mayor agreed, and also mentioned limiting the number of signs allowed. He requested that Mr. Boggia research whether the ordinance was constitutional and if not, what changes need to be made, and report back to the Governing Body.

10. 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 to comments from the public was **moved** by Councilman Hoffman, **seconded** by Councilman Loffredo and carried at 8:00 p.m.

Mr. Matthew Lachman, 213 Congress Avenue – Mr. Lachman discussed the issue of vehicles speeding on his street, the number of children playing in the area, and the frequency of vehicular accidents at this location. He requested that a 25 mph sign be placed there. Chief Saudino commented that most side streets in the area do not have signs because, by law, the speed limit is set at 25 mph. He stated that he had no objection to placing a sign there and would position the electronic speed

sign in that area for four or five days to increase compliance with the law. Mr. Lachman also thought that a 'Children at Play' sign would be helpful. Mr. Scarpa asked if Mr. Lachman would permit the sign to be placed in front of his home. Mr. Lachman stated that he did not want the sign in front of his home and suggested other areas where the placement would be more appropriate. He also asked about the paving schedule in town. Mr. Scarpa explained that the list is compiled and prioritized each fall based on road conditions.

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

☞ **Motion** to close the meeting to comments from the public was **moved** by Council President Heyer, **seconded** by Councilman Loffredo and carried at 8:05 p.m.

11. CONSENT AGENDA-Resolution No. 142-08

☞ **Motion** to approve the Consent Agenda Resolution #142-08 was **moved** by Councilman Milone, **seconded** by Council President Heyer and carried by roll call vote.

RC: Council members:

DeSalvo-Yes

Bair-Yes

Milone-Yes

Heyer-Yes

Loffredo-Yes

Hoffman-Yes

Ca#143-08 Approve the award of Contract for Pistol Range Study with the Borough of Westwood to T.M. Ryback and Associates P.C., in the amount of \$23,000

12. CLOSED SESSION RESOLUTION No. 144-08

☞ **Motion** to close for an executive session to discuss matters exempt from the public as duly noticed by Resolution No. 144-08 with the addition of Personnel – Police and Litigation – Sewer repair – Linwood and Wortendyke Avenues was **moved** by Councilman Hoffman, **seconded** by Council President Heyer and carried by roll call vote.

RC: Council members:

DeSalvo-Yes

Bair-Yes

Milone-Yes

Heyer-Yes

Loffredo-Yes
Hoffman-Yes

#08-8/5-61 Litigation – Redevelopment

#08-8/5-62 Personnel – Police

#08-8/5-63 Litigation – Sewer repair – Linwood & Wortendyke Avenues

13. RECONVENE

☞ **Motion** to reconvene was moved, seconded and carried at 9:00 p.m.

Mr. Boggia stated that Construction Official Mike Sartori recommended that there be no change of occupancy for businesses without going through the **Planning Board**. The Governing Body discussed amending a Planning Board ordinance to restrict usage changes of Borough businesses. Councilman Bair commented that the current ordinance had ‘no teeth’ and that they are currently unable to restrict certain businesses. The issue arose over the potential for an application for a preexisting business to change ownership, but have insufficient parking. Councilman Bair stated that the Planning Board cannot deny a tenancy change for this reason. A change in the ordinance would allow the Planning Board to use their discretion to allow or deny tenancy based on the extent of the potential usage change. Mr. Boggia commented that this issue has already been litigated, noting that if a business is deficient in parking and it is preexisting, you cannot impose on that particular tenant an obligation to go out and acquire land or parking spaces. Mayor Lamatina and Councilman Bair decided to bring this issue back before the Planning Board for recommendations.

14. 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 9:00 p.m.

Carol Dray, RMC/CMC

August 7, 2008