



MAYOR AND COUNCIL MINUTES
Regular Meeting
Tuesday, February 17, 2009
7:30 P.M.
EXECUTIVE (CLOSED) SESSION-7:30PM-8:15PM
BOROUGH HALL COUNCIL CHAMBERS
Municipal Place
Emerson, NJ 07630

Call to Order

Mayor Lamatina called the meeting to order at 7:35 pm. Mr. Thomas Callagee led the salute to the flag followed by a moment of silence at the request of the Mayor.

O.P.M.A. Statement

Mayor Lamatina read the Sunshine Statement announcing that the meeting of February 17th, 2009 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
Councilman Browne - Present
Councilman Heyer-Present
Council President Hoffman-Present
Councilman Lazar - Present
Councilman Loffredo - Present

Also present were Carol Dray, Borough Clerk, Phil Boggia, Borough Attorney, Joseph Scarpa, Business Administrator, and Paul Niehoff, Borough Engineer.

6. CLOSED SESSION RESOLUTION No. 53-09

☞ **Motion** to close for an executive session to discuss matters exempt from the public as duly noticed by Resolution No. 53-09 was **moved** by Councilman Heyer, **seconded** by Council President Hoffman and carried by roll call vote.

RC: Council members:

Lazar-Yes

Browne-Yes

Bair-Yes

Hoffman-Yes

Heyer-Yes

Loffredo-Yes

#09-2/17-6 Redevelopment – Puddingstone Group

#09-2/17-7 Police Negotiations

#09-2/17-8 Hillman Field Improvements

7. RECONVENE

☞ **Motion** to reconvene was **moved** by Councilman Heyer, **seconded** by Council President Hoffman and carried at 8:18 p.m.

8. APPROVAL OF MINUTES

- Regular Meeting/Sine Die of December 16, 2008
- Special Meeting of December 30, 2008
- Reorganizational Meeting of January 6, 2009

The above meeting minutes were all approved without corrections by the Mayor and Council.

9. CORRESPONDENCE

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

- Letter dated 1/19/09 from Victoria Mink, Senior V.P. of Cablevision; Re: Franchise fee payment of \$57,973 to the Borough of Emerson
- Letter dated 1/21/09 from Linda LoPiccolo, RMC/CMC, President BC Municipal Clerks' Association; Re: Carol Dray, RMC/CMC/CMR, appointed as Vice-President of Bergen County Municipal Clerks' Association
- Letter dated 1/22/09 from Russell Huntington; Re: Emerson Fence Co. Redevelopment Meeting request

- Letter dated 1/29/09 from Ronald Chen, Public Advocate; Re: Protecting the legal rights of tenants
- Letter dated 2/3/09 from Edward Hynes, Executive Director, Bergen County Improvement Authority; Re: 2009 pooled financing notes
- Letter dated 2/9/09 from Keith Kazmark, Municipal Clerk of Elmwood Park, NJ; Re: Amending Binding Arbitration Laws in the State of New Jersey
- Letter received 2/13/09 from Brian Jaeger; Re: Eagle Scout project request

10. PROCLAMATIONS AND PRESENTATIONS

Read Across America

The Mayor read a Proclamation calling on the citizens of the Borough of Emerson to assure that each child gather with a caring adult on March 2, 2009 to read in pursuit of a life long passion to continue to the practice.

11. ORDINANCES

SECOND READING AND PUBLIC HEARING:

1363-09 AN ORDINANCE ESTABLISHING CHAPTER 130 "CHARITABLE DONATION BINS," OF THE CODE OF THE BOROUGH OF EMERSON, IN ORDER TO REGULATE THE PLACEMENT AND OPERATION OF DONATION BINS WITHIN THE BOROUGH OF EMERSON

☞ **Motion** to open the meeting to public comment on this topic only was **moved** by Councilman Loffredo, **seconded** by Council President Hoffman and carried.

Seeing no hands, Mayor Lamatina asked for a motion to close the meeting to public comment on this topic only.

☞ **Motion** to close the meeting to public comment on this topic only was **moved** by Council President Hoffman, **seconded** by Councilman Loffredo and carried.

☞ **Motion** to adopt Ordinance #1363-09 on second reading was **moved** by Council President Hoffman, **seconded** by Councilman Heyer and carried by roll call vote.

RC: Council members:

Lazar-Yes

Browne-Yes

Bair-Yes

Hoffman-Yes

Heyer-Yes

Loffredo-Yes

1364-09 BOND ORDINANCE AUTHORIZING AND PROVIDING FOR VARIOUS GENERAL IMPROVEMENTS, APPROPRIATING \$440,000 AS AN APPROPRIATION THEREFOR AND AUTHORIZING THE ISSUANCE OF \$418,000 OF BONDS OR NOTES OF THE BOROUGH FOR FINANCING THE COST OF SAID IMPROVEMENTS AUTHORIZED TO BE UNDERTAKEN IN AND BY THE BOROUGH OF EMERSON, IN THE COUNTY OF BERGEN, NEW JERSEY

☞ **Motion** to open the meeting to public comment on this topic only was **moved** by Councilman Loffredo, **seconded** by Council President Hoffman and carried.

Seeing no hands, Mayor Lamatina asked for a motion to close the meeting to public comment on this topic only.

☞ **Motion** to close the meeting to public comment on this topic only was **moved** by Councilman Lazar, **seconded** by Councilman Heyer and carried.

☞ **Motion** to adopt Ordinance #1364-09 on second reading was **moved** by Councilman Loffredo, **seconded** by Council President Hoffman and carried by roll call vote.

RC: Council members:

Lazar-Yes

Browne-Yes

Bair-Yes

Hoffman-Yes

Heyer-Yes

Loffredo-Yes

1365-09 AMENDING CHAPTER 240 OF THE CODE OF THE BOROUGH OF EMERSON ENTITLED SNOW AND ICE, REMOVAL OF

☞ **Motion** to open the meeting to public comment on this topic only was **moved** by Councilman Browne, **seconded** by Councilman Loffredo and carried.

Seeing no hands, Mayor Lamatina asked for a motion to close the meeting to public comment on this topic only.

☞ **Motion** to close the meeting to public comment on this topic only was **moved** by Councilman Browne, **seconded** by Councilman Loffredo and carried.

☞ **Motion** to adopt Ordinance #1365-09 on second reading was **moved** by Council President Hoffman, **seconded** by Councilman Loffredo and carried by roll call vote.

RC: Council members:

Lazar-Yes

Browne-Yes

Bair-Yes

Hoffman-Yes

Heyer-Yes

Loffredo-Yes

1366-09 AN ORDINANCE REPLACING CHAPTER 77 OF THE CODE OF THE BOROUGH OF EMERSON ENTITLED "POLICE DEPARTMENT"

☞ **Motion** to open the meeting to public comment on this topic only was **moved** by Councilman Loffredo, **seconded** by Councilman Heyer and carried.

Police Chief Saudino asked to be heard in Closed Session regarding the ordinance and have the Mayor and Council vote on it afterwards. He explained that he believed it contained a conflict with the State Statute. Mr. Boggia asked if it concerned an issue recently litigated, specifically, chain of command. Chief Saudino explained that he had recently discovered additional language in the ordinance that he found problematic. Mr. Boggia suggested postponing the vote for two weeks. Mr. Boggia, Chief Saudino and the Governing Body debated the language and interpretation of the ordinance regarding chain of command and delegating authority. Based on the discussion, it was determined that the ordinance needed to be reintroduced with agreed upon language since the changes were substantive.

☞ **Motion** to table Ordinance #1366-09 for reintroduction in two weeks was **moved** by Councilman Heyer, **seconded** by Councilman Loffredo and carried by roll call vote.

RC: Council members:

Lazar-Yes

Browne-Yes

Bair-Yes

Hoffman-Yes

Heyer-Yes

Loffredo-Yes

1367-09 AMENDING ORDINANCE #1353-08 DEFINED RETIRMEMENT TO REMOVE MUNICIPAL COURT ADMINISTRATOR PER LFN-2008-10

☞ **Motion** to open the meeting to public comment on this topic only was **moved** by Councilman Browne, **seconded** by Councilman Loffredo and carried.

Seeing no hands, Mayor Lamatina asked for a motion to close the meeting to public comment on this topic only.

☞ **Motion** to close the meeting to public comment on this topic only was **moved** by Councilman Browne, **seconded** by Councilman Loffredo and carried.

☞ **Motion** to adopt Ordinance #1367-09 on second reading was **moved** by Council President Hoffman, **seconded** by Councilman Loffredo and carried by roll call vote.

RC: Council members:

Lazar-Yes
Browne-Yes
Bair-Yes
Hoffman-Yes
Heyer-Yes
Loffredo-Yes

12. OLD BUSINESS

None

13. NEW BUSINESS

a) Appointing Historic Commission Members – Council President Hoffman explained that the Historic Commission ordinance was adopted early last year and he was ready to move forward with membership. He added that by ordinance and statute, a Class I member would need to be an architect or expert in building design. An interested individual from Westwood was brought to Council President Hoffman’s attention by Councilman Lazar. He stated that residency was not a requirement for appointment, but the Mayor mentioned that it would be preferable. Council President Hoffman requested that the first four members be appointed by Mayor Lamatina in the meantime. Finally, he asked Mr. Scarpa to put \$1000 into the budget. The Mayor requested that the appointments be added to the next agenda.

b) Change in seating of Council members – Resolution #58-09 – The Mayor explained that a seating rearrangement was requested because of physical limitations. Ms. Dray stated that she had prepared a resolution since the bylaws were being amended.

☞ **Motion** to change the seating of Council members was **moved** by Councilman Browne, **seconded** by Councilman Heyer and carried by roll call vote.

RC: Council members:

Browne-Yes
Lazar-Yes
Loffredo-Yes
Hoffman-Yes
Heyer-Yes
Bair-Yes

c) "Smart Growth" and hybrid vehicle grant availability investigation – Councilman Browne stated that he wanted to emulate what Montvale had done in terms of investigating Smart Growth or transit village funding from the State, in the interest of improving pedestrian safety and vehicular safety downtown. Mayor Lamatina suggested that Councilman Browne coordinate grant requests with the redesign of Kinderkamack

Road and Emerson's use of Smart Growth principles. The Councils' consensus was that Councilman Browne would take the lead on the Smart Growth initiative.

d) Supporting Kinderkamack Road Improvements-#59-09 – Mr. Scarpa distributed a list of detailed downtown traffic problems written by Councilman Browne and Council President Hoffman which were to be inserted in the resolution.

☞ **Motion** to approve Resolution #59-09 with changes from Councilman Browne and Council President Hoffman was **moved** by Councilman Heyer **seconded** by Councilman Loffredo and carried by roll call vote.

RC: Council members:

Browne-Yes

Lazar-Yes

Loffredo-Yes

Hoffman-Yes

Heyer-Yes

Bair-Yes

Mayor Lamatina discussed the Request for Proposals for engineering services associated with the widening and redesign of Kinderkamack Road and asked for any feedback from the Governing Body.

☞ **Motion** to approve the RFP as drafted with any amendments suggested by the Borough Engineer was **moved** by Councilman Heyer, **seconded** by Councilman Loffredo and carried by roll call vote.

RC: Council members:

Browne-Yes

Lazar-Yes

Loffredo-Yes

Hoffman-Yes

Heyer-Yes

Bair-Yes

e) Support of funding for municipal library resolution – The Mayor explained that the New Jersey League of Municipalities was in support of a move to reduce the funding to libraries, lowering the maximum. The Governing Body chose not to take any action for lack of information.

9. REPORTS

MAYOR AND COUNCIL:

Councilman Browne stated that he and Mr. Scarpa had met with New Jersey Transit to discuss minor improvements to the loading platform. He added that NJT had agreed that the conditions were poor but that there were limits to what they could do. Mr. Scarpa noted that they were going to add a light or two and clean up debris and perhaps resurface the whole area depending on funding. Councilman Browne also mentioned

that the twenty seven foot right of way was being encroached upon by businesses. Mayor Lamatina said that Mr. John Jahr had talked to the Governing Body about funding and estimated that NJT should contribute to funding the redesign of Kinderkamack Road.

Councilman Lazar stated that he had been going over the finances with Ms. Henderson, the Borough CFO to predict 2009 expenditures. He outlined lawsuits and expenses that Mr. Scarpa had gone over with him. He also stated that the Borough was going to utilize blanket requisitions for reoccurring, routine billing such as electric, utilities, salaries, etc. Mr. Scarpa stated that this practice had been done in the past and would eliminate past due notices. Councilman Lazar also discussed the cost of salt and overtime for the **DPW** based on recent bad weather. He stated that he did not consider 2009 being a good year for taxpayers and added that he wanted to make sure that the Borough was careful to keep spending under control. Mr. Scarpa noted that there would be a draft budget available hopefully by the next meeting.

Councilman Loffredo announced that the town picnic would be held on June 13th. He also gave the **Police Department** report for January.

Council President Hoffman gave the **Ambulance Corps** and **Fire Department** reports for the month of January. In addition, he gave the **Fire Inspectors'** report for the calendar year 2008. He commended Fire Inspector Frank Boccio and his group of inspectors for the great job they were doing. He also mentioned that the **Shade Tree Commission** had discussed a planting for a median strip on Old Hook Road based on Shop Rite's planned improvements. Councilman Browne asked if some additional sidewalk could be placed on Main Street near Shop Rite to increase pedestrian safety.

Councilman Heyer – No report

Councilman Bair discussed the proposed improvements to Shop Rite, explaining that they would expand into two additional storefronts where the liquor store would be moved. Two bathrooms would be put where the existing liquor store was presently located. They also planned to expand their pharmacy. He also mentioned that the **Board of Education** was working on their budget.

Mayor Lamatina spoke about a report he received from 11th grader Brian Jaeger who was trying to achieve the Eagle Scout rank. Mr. Jaeger requested creating a cleared path from Walnut Avenue to the fairways to create a quick and easy route from one side of town to the other. He wanted to name the path in memory of Tom Carlos and Kevin Beattie. Councilman Loffredo remarked that this area was not supposed to be a walking route since there was a steep hill and if it was improved it would have to meet certain criteria. Improvements would have to guarantee safety, including railings. Mr. Scarpa said that it would need to be maintained and that there would be liability issues. Mayor Lamatina emphasized that he had walked there and that it was dangerous. Councilman Browne said that he would ask Mr. Jaeger if he would like to help with the Safe Routes to School initiative instead.

Mayor Lamatina introduced Borough Engineer Paul Niehoff who was present in an effort to improve communications to report on general and current issues. He explained that he would provide a memo at least every month to summarize the ongoing projects in town. He updated the Governing Body on the Hillman Park project, and Lincoln Boulevard improvements where he detailed minor punch list items. He also discussed the sidewalk improvement project which would be funded with grant money. (A great deal of Mr. Niehoff's report was inaudible most likely because the microphone nearest him was not turned on.) Also discussed were proposed improvements to the Emerson Hotel; they want to delay streetscape improvements until next spring. Mayor Lamatina stated that the **Planning Board** would have to agree to that request. Councilman Lazar suggested that the Emerson Hotel post a performance bond to guarantee completion of the work. Mayor Lamatina recommended adding Oritani Bank to the list of items to discuss since they were awaiting a final Certificate of Occupancy. The Mayor also discussed how often they would need to meet with Mr. Niehoff at Council meetings, explaining that it would only be necessary if there were funding or billing issues, or at the discretion of the Council. In response to Councilman Lazar's question, Mr. Niehoff said that at present, there was no charge for his appearance at the meetings.

The Mayor continued with his report by stating that Dr. Hashim, owner of the Tool Chest property, was present. He updated the Council on Dr. Hashim's plan to develop his building with retail on the ground floor, renovations to the exterior and interior, one second floor office and three residential units. Mr. Hashim was asking for Governing Body approval to develop his own property. The Mayor also mentioned his discussions with Mr. Davtian, the owner of the Sunoco gas station, who also had plans for his building. He and Mr. Scarpa had discussed the PNC Bank location and wanted to bring together Mr. Davtian and Mr. Hashim to do something with that property.

Dr. Hashim explained that he had been to a Westwood architect and showed his plan to the Governing Body. He discussed changing the appearance of the exterior, placing two retail stores on the first floor, with an office and three apartments on the second floor. He also said that he would comply with the present redevelopment plan for exterior lighting, the façade and windows. Parking ingress and egress was reviewed as well. Dr. Hashim discussed his meeting with Mr. Davtian and told the Mayor that negotiations were in progress with PNC Bank. He added, however, that they did not have the financial capability to complete their projects at one time – a phased approach was necessary. Mayor Lamatina reminded them that they would need to consider parking, deed restrictions and the fact that a gas station was not currently part of redevelopment. He told Dr. Hashim that the Governing Body was not in a position to approve or disapprove his plan that evening, based on the information supplied. Based on Dr. Hashim's

concerns, Mayor Lamatina explained that he could tie the plan approvals to the purchase of the PNC Bank location. He also asked Dr. Hashim to follow-up with him or Mr. Scarpa on his progress with the bank and have his architect calculate parking requirements for the plan. They could then be submitted to Borough Planner Joseph Burgis for review.

BOROUGH ADMINISTRATOR – Mr. Scarpa reviewed the following:

- Metro PC had inquired about locating some equipment on the roof top and add equipment to the pole at the **DPW** yard. They proposed a \$900 rental fee per month. Mr. Scarpa suggested starting at double that amount. He added that DPW Superintendent Joe Solimando had no problems with this request.
- A follow-up meeting with Community Development was scheduled for February 24th where Emerson’s application for a chair lift at the Firehouse would be heard.
- The Borough had received a \$3000 grant from the Bergen County 200 Club for the **Fire Department**.
- He had drafted a letter from the Mayor to the County inquiring about the status of the sewer jet. Mayor Lamatina added that he had spoken to the County Executive and Mr. Murphy who both assured him that it would happen.

Mayor Lamatina asked Mr. Scarpa if he had reviewed a February 3rd letter from the Bergen County Improvement Authority about bonding. Mr. Scarpa said that he would have the Borough’s Bond Counsel review it. Councilman Browne asked Mr. Scarpa about the status of the recycling cans with advertising that were supposed to be placed around town. Mr. Scarpa responded that they company had been in contact and that a meeting was to be set up shortly.

BOROUGH CLERK – No report

BOROUGH ATTORNEY – No report

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 for comments from the public was **moved** by Councilman Heyer, **seconded** by Councilman Bair and carried at 10:33 p.m.

Mr. Pfister, 31 Franklin Court stated that he supported the Police Department chain of command and that problems such as low morale within the police department were created when it was violated.

Mr. Michael Esqueu, 276 Kinderkamack Road remarked that the water company had dug up the road in his vicinity and on Highland Avenue on two occasions to replace a fire hydrant. He added that the repair work was not done properly and that there were sinkholes and cracks in the road. Mr. Scarpa recalled that this took place on Halloween and had called United Water and was told that it was an emergency situation. He was not aware that there was still an issue and would follow up with United Water and the County within a couple days.

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 Councilman Browne, **seconded** by Councilman Heyer and carried.

11. CONSENT AGENDA-Resolution No. 54-09

☞ **Motion** to approve the Consent Agenda Resolution No. 54-09 was **moved** by Councilman Heyer, **seconded** by Councilman Browne and carried by roll call vote.

RC: Council members:

Browne-Yes

Lazar-Yes

Loffredo-Yes

Hoffman-Yes

Heyer-Yes

Bair-Yes

Ca 55-09 Approve Bill List

Ca 56-09 Authorize Mayor Lamatina to execute the On-Line Auction Agreement with PropertyRoom.com

Ca 57-09 Change Order Municipal Building Improvements – LKL Contracting

☞ **Motion** to find JC Landscaping in default on Friday, February 20th, 2009 if work was not begun to bring the punch list items yet to be completed for the Hillman Field Project to a satisfactory conclusion was **moved** by Councilman Bair, **seconded** by Councilman Loffredo and carried by roll call vote.

RC: Council members:

Browne-Yes

Lazar-Yes

Loffredo-Yes

Hoffman-Yes

Heyer-Yes

Bair-Yes

12. CLOSED SESSION

☞ **Motion** to close to resume the executive session to discuss matters exempt from the public as duly noticed by Resolution No. 53-09 was **moved** by Councilman Heyer, **seconded** by Councilman Loffredo and carried.

13. ADJOURNMENT

With no other business to address, at the request of Mayor Lamatina, Councilman Heyer **moved** to adjourn the meeting, **seconded** by Councilman Loffredo and carried at 11:45 p.m.

Carol Dray, RMC, CMC

March 17, 2009

(Proofed 03/23/09, cd)