



MAYOR AND COUNCIL MINUTES
 Tuesday, September 5, 2006
 8:00 P.M.
BOROUGH HALL COUNCIL CHAMBERS
 Municipal Place
 Emerson, NJ 07630

This meeting was called to order at 8:07 pm. Former Mayor Owen Cassidy led the Salute to the Flag followed by a moment of silence for Captain David Hayes’ mother who passed away.

Mayor Setteducati read the Open Public Meetings Statement announcing that the meeting was called pursuant to the provisions of the Open Public Meetings Law. This meeting of **September 5, 2006** was included in a list of meeting notices sent to the Bergen Record and Ridgewood News on December 15, 2005 and advertised in said newspapers on December 17th & December 23, 2005; respectively, posted on the bulletin board in the Municipal Building on December 17, 2005 and has remained continuously posted as the required notices under the Statute. In addition, a copy of this notice is and has been available to the public and is on file in the Office of the Municipal Clerk of the Borough Hall.

Mayor Setteducati asked all to rise in a moment of silence in observance of September 11 and that sirens would be heard on 9/11 at each moment that a tower fell.

ROLL CALL

- Councilman Robert Belli-Present
- Councilwoman Carole Costantin-Absent
- Councilman Christopher Heyer-Present
- Councilman Kenneth Hoffman-Present
- Councilman Frank Milone, Jr.-Present
- Council President Brian Todd-Present
- Mayor Steven Setteducati-Present

Also present were Borough Administrator, Joseph Scarpa, Borough Clerk, Carol Dray and William Smith, Borough Attorney.

- I. Approval of Minutes:
 - i. Regular Meeting of May 16, 2006

By request of Mayor Setteducati, the approval of the meeting minutes of May 16th was postponed until he had had an opportunity to read them. There was no objection to Mayor Setteducati’s request.

VII. CORRESPONDENCE

Mayor Setteducati announced that copies of the correspondence are on file in the Office of the Municipal Clerk.

- #06-76 letter dated 8/14/06, re: Court Security, P. Carchman
- #06-77 letter dated 8/17/06, re: Lightning Detection System, Mayor Deutsch, Hillsdale
- #06-78 brochure, re: Municipal Elected Officials Certificate Program, Center of Government Services, Rutgers University
- #06-79 letter dated 8/22/06, re: Collection of deer carcasses, Cty. Executive, D. McNerney
- #06-80 letter dated 8/06, re: Thanks for Block Party Support, EVAC
- #06-81 letter dated 8/22/06, re: Education Aid, Senator Cardinale
- #06-82 letter dated 8/25/06, re: NJDOT Local Aid Program, DOT
- #06-83 letter dated 8/30/06, re: Statewide Municipal Court Security Policy, Judge F. Leddy, Jr.

VIII. PROCLAMATIONS AND PRESENTATIONS

IX. APPOINTMENT AND PERSONNEL CHANGES

1. Resignation

a) Emerson Board of Health

Motion to accept the resignation of Frank Mayger from the Emerson Board of Health by Councilman Belli, seconded by Councilman Milone and carried unanimously.

2. Appointments

b) Council liaisons

Motion to confirm the appointment of Councilman Heyer as second liaison on the Emerson Volunteer Ambulance Corps and the appointment of Councilman Belli as second liaison on the Recreation Commission was moved by Councilman Todd, seconded by Councilman Milone and carried unanimously.

c) Part time Crossing Guards

Motion to appoint Jean Carlos, Andrew Lee and Joseph Ellis as part time crossing guards effective immediately at the rate of pay established by salary ordinance was moved by Councilman Milone, seconded by Councilman Belli and carried unanimously.

d) Board of Health

Motion to appoint Randy Sturm to the Emerson Board of Health for the unexpired term ending 12/08 effective immediately was moved by Councilman Milone, seconded by Councilman Belli and carried.

XI. ORDINANCES-FIRST READING

1306-06 AN ORDINANCE AMENDING THE ZONING CODE OF THE BOROUGH OF EMERSON TO CREATE AN OVERLAY ZONE ON BLOCK 702, LOTS 2, 6, & 7 WHICH ARE PRESENTLY LOCATED IN THE R-7.5 RESIDENTIAL ZONE, AND ADDING AS A PERMITTED USE IN THIS PORTION OF THE R-7.5 RESIDENTIAL ZONE A NURSING HOME USE

Mayor Setteducati stated that this ordinance had been amended since first introduction and was now re-introducing it with the changes.

☞ **Motion** to approve Ordinance No. 1306-06 on introduction was moved by Councilman Belli, seconded by Councilman Milone and carried on roll call vote of 5-0.

RC: Council members

Milone-yes
Costantin-absent
Belli-yes
Heyer-yes
Todd-yes
Hoffman-yes

Mayor Setteducati explained that the Planning Board would receive the introduced ordinance for review and present their recommendations to the Mayor and Council for final approval before the second reading and public hearing planned for September 19, 2006 at 8:00 p.m. in the Council Chambers of the Borough Hall, Municipal Pl., Emerson, N.J. and published in the September 8th edition of the Ridgewood News. Ordinance No. 1306-06 was on file in the Clerk's Office and posted on the official bulletin board of the Municipal Building.

1311-06 AN ORDINANCE AMENDING CHAPTER 274-50 OF THE CODE OF THE BOROUGH OF EMERSON ENTITLED "SCHEDULE XIV: NO PARKING" TO PROHIBIT PARKING ON A PORTION OF THE EAST SIDE OF UNION STREET

☞ **Motion** to approve Ordinance No. 1311-06 on introduction was moved by Councilman Belli, seconded by Councilman Milone and carried on roll call vote of 5-0.

RC: Council members

Milone-yes
Costantin-absent
Belli-yes
Heyer-yes
Todd-yes
Hoffman-yes

Mayor Setteducati announced that the ordinance was approved on first reading unanimously and would be further considered for final approval at a second reading and public hearing planned for September 19, 2006 at 8:00 p.m. in the Council Chambers of the Borough Hall, Municipal Pl., Emerson, N.J and published in the September 8 , 2006 edition of the Ridgewood News. Ordinance No. 1311-06 was on file in the Clerk's Office and posted on the official bulletin board of the Municipal Building.

XII. ORDINANCES-SECOND READING AND PUBLIC HEARING

1307-06 AN ORDINANCE TO FIX THE SALARIES, WAGES, COMPENSATION AND OTHER TERMS OF EMPLOYMENT OF CERTAIN EMPLOYEES OF THE BOROUGH OF EMERSON FOR THE CALENDAR YEAR 2006

☞ Councilman Belli **moved** to open the meeting for public comment on this ordinance only, seconded by Councilman Milone and carried.

☞ Seeing no hands, Councilman Heyer **moved** to close the meeting for public comment, seconded by Councilman Belli and carried.

☞ **Motion** to adopt Ordinance #1307-06 was **moved** by Councilman Milone, seconded by Councilman Belli and carried by roll call vote.

RC: Council members:

Milone-yes

Costantin-absent

Belli-yes

Heyer-yes

Todd-yes

Hoffman-yes

Mayor Setteducati announced that Ordinance No. 1307-06 was duly adopted by a vote of 5-0.

X. OLD BUSINESS

Discussions:

1. Proposed changes to Fence Ordinance 290-40

Councilman Hoffman questioned security issues in regard to the amendment to the fencing ordinance; specifically, the suggestion to make an exception for the use of barb wire around the reservoir as such for situations where the public health and safety might be at risk. The council was in agreement to the exception with counsel's approval. Mayor Setteducati directed Mr. Smith to draft the ordinance with the exception.

2. Proposed Block Party Ordinance

Mayor Setteducati stated that the proposed ordinance would be discussed after closed session.

3. Police Dispatchers

Councilmen Todd and Belli had discussed the hiring of dispatchers with Chief Saudino and Captain Hayes after the position had been advertised and two candidates had been interviewed. Councilman Todd understood that there was a shortage of part timers and were still actively looking. Councilman Belli suggested advertising for part time weekend dispatchers at local community colleges. Mr. Scarpa added that the position was advertised on August 23 and 28th but no names had been given to him. The matter was moved to closed session for further discussions since no names were presented. Mayor Setteducati added that he was disappointed that there were not more dispatchers rather than using police officers to sit at the desk.

Mayor Setteducati added two topics:

- a) considering increasing the hours of the sub code electrical inspector
- b) hiring a part time Property Maintenance official to assist the Code Enforcement Officer

The council briefly discussed the matter with input from Mr. Scarpa.

☞ **Motion** to increase the hours of the sub-code electrical inspector by an additional day or 2.5 hours to and to amend the salary ordinance to reflect that increase by \$5,250 accordingly was moved by Councilman Milone seconded by Councilman Belli was carried by roll call vote.

RC: Council members:

Milone-yes
Costantin-absent
Belli-yes
Heyer-yes
Todd-yes
Hoffman-yes

The matter of hiring a property maintenance person had been previously discussed and approved.

☞ **Motion** to authorize the borough administrator to advertise to fill the position of part time Property Maintenance official was moved by Councilman Belli, seconded by Councilman Milone and carried unanimously.

Councilman Belli proposed that a tree be planted in honor of Muriel Wassmann and Councilman Hoffman volunteered to present the proposal to the Shade Tree Commission. ☞ **Motion** to plant a tree in the name of Muriel Wassmann was moved by Councilman Belli, seconded by Council President Todd and carried unanimously.

XIII. FINANCIAL ACTION

NONE

XIV. NEW BUSINESS

NONE

XV. REPORTS

1. Office of the Borough Administrator
Mr. Scarpa volunteered to hold his report until the next meeting.
2. Office of the Municipal Clerk-There was no report made by the Municipal Clerk.
3. Borough Attorney had no report in open session.

XVI. PUBLIC COMMENT

*In the interest of time, speakers are limited to **five (5) minutes**. Speakers with prepared statement should provide **eight (8) copies** for the Council*
Before opening the meeting for comments from the public, Mayor Setteducati 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 Setteducati 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 ejection from the council chambers.

☞ **Motion** to open to the public for comments was moved by Councilman Belli, seconded by Councilman Milone and carried unanimously.

Beverly Dunn, 131 Grand Blvd., thanked the governing body for cutting the weeds at the construction site but remarked that the port-a john reeked. Mayor Setteducati promised to make a phone call the next day to have the problem corrected. Mr. Scarpa was asked to follow up with the situation.

Gina Calogero, 3 S. Dorchester Rd., commented about a record request she had made through the borough clerk for all correspondence between the police committee and Chief Saudino and wondered why she and another resident had been denied a particular document when the document had been posted on a website alleged to be maintained by Mayor Setteducati, Councilman Belli and Councilwoman Costantin. Councilman Belli had no idea what Ms. Calogero was referring to.

Tom DeScisciolo, 64 Dyer Ave., asked what the average revenue from ratables had been for the Pascack Valley shopping center in the proceeding years. Mayor Setteducati estimated \$290,000 and anticipated over a million dollars after the improvements.

Mr. Fagan, 177 Colonial Rd., wondered when the governing body would file the criminal complaint against him and Mayor Setteducati replied that it was yet to be determined. Mr. Fagan further clarified and elaborated on Ms. Calogero's claims about the OPRA request and his entitlement to it. Mayor Setteducati deferred his question to the borough attorney and Mr. Smith replied that if Mr. Fagan really wanted the document he could get it from the lady in green then agreed to review the OPRA request when Mr. Fagan insisted. Mr. Fagan accused Councilman Belli of voting on spending \$90,000 for legal fees without knowing what he was voting on since he would not have been entitled to review the privileged documentation prior to the vote. Mayor Setteducati commented that Councilman Belli's comments had been taken out of context at the time and were reported erroneously.

Vincent Donato, 128 Vivian Ave., stated that this was his second attempt for information in regard to the borough attorney's billing; specifically, for services beyond Mr. Smith's annual contract. Mr. Donato then inquired who approved Mr. Smith's bills and how many of his billing hours were dedicated for the matter of filing charges against Chief Saudino. Councilman Todd volunteered that Councilman Camporeale had been approving the legal vouchers. Mayor Setteducati corrected an erroneous report in the Bergen Record in regard to the emergency appropriation resolution that was approved by the governing body to defend the borough against litigation including the Chief of Police's lawsuit. Mr. Donato maintained that the charges against the police chief were nothing more than an attempt to destroy his career.

Ms. Calogero, 3 S. Dorchester Rd., wondered when the borough would receive all of Mr. Smith's bills for legal services through July 2006 and Mr. Smith replied that it was a very good possibility that all of them existed. Councilman Heyer explained the procedure for

signing off on vouchers. Mayor Setteducati reminded everyone that the emergency resolution was passed in response to lawsuits that were filed by people in the room in opposition to what the governing body was doing. He found it hypocritical that people complained about litigation fees when it was those very same people who were initiating the lawsuits. Councilman Hoffman countered that one could argue that the actions of certain members of the governing body brought about the action of litigation.

Mr. Fagan, 177 Colonial Rd., remarked that he did not have three lawsuits against the borough. He guaranteed victory against Mr. Smith on Thursday. Mr. Fagan questioned a certification filed by Mayor Setteducati, however, the mayor refused to comment on the grounds that it was a matter of litigation and exempt from public discussion.

Jay Blau, 24 Mitchell St., honored his recently deceased father, Arthur F. Blau, describing his personal work ethic of upwards of 100 hours a week for relative little pay. In his opinion as a taxpayer, and his reason for including the public in his personal grieving process, was to inform the public of the contrast between how hard his father had worked for so little in comparison to the hours and pay of today's police officers. Councilman Hoffman commented that he had voted on the 12-hour shift because it had been presented as a temporary trial basis and on the advice of Mr. Fischer. Mayor Setteducati stated the he was not anti police but a matter of feeling that the department could be run better with greater cooperation by the Police Chief. Mr. Blau felt that the town was overstaffed and a burden to the taxpayer.

Councilman Hoffman agreed that cooperation between the police and the governing body was vital in keeping those costs down but did not see how filing vendetta charges against the police chief was the right direction towards cooperation with the police chief.

Pat Hauser, Palisades Ave., objected to the use of inference with no respect to the elected position.

Rosario Giaritta, 72 Hillside Ave., was confused in regard to the emergency appropriation resolution and referenced an alleged quote by Mr. Scarpa in a newspaper article. Mayor Setteducati remarked that he had found that quote and others totally erroneous and claimed the article was full of inaccuracies. Mr. Scarpa had not read the article but was not surprised by the inaccuracies since he had never seen Deena Yellin at a council meeting. He added that he only dealt in facts with her and had just given Ms. Yellin the figures she had asked for. After taking a few moments to read the article, Mr. Scarpa denied making the statements that Ms Yellin claimed he did and it was her wording, not his. Mr. Smith concurred adding that Ms. Yellin had called him stating that she was confused after speaking to many people and apparently was still confused when she wrote the article because she also completely misquoted what he had said. Mr. Smith went further by pointing out that Ms. Yellin actually says in the article that Mr. Scarpa made the quote and Mr. Scarpa remarked that that was typical of the newspaper.

Mr. Giaritta continued the discussion by referencing some of the statements in the article and Mayor Setteducati explained the circumstances behind them. Mayor Setteducati acknowledged that he was guilty of asking a question about a juvenile that he should not have but felt it was nonsense to make it sound as though he was interfering. Mr. Giaritta pleaded with the mayor to sit down and work it out with the police department. Mayor

Setteducati claimed that was his goal but there continued to be problems with supervision over police officers.

Councilman Hoffman wondered why he was unaware any of those instances adding that he had repeatedly sought information from the labor law attorney to no avail and that he, as a member of the council, should be aware of the problems. Mayor Setteducati replied to Mr. Giaritta that disclosing some of the information would be in violation of personnel laws and ongoing investigations. Mr. Smith stated that no one was keeping his billing information confidential, he simply did not have the information with him and anything that had been requested had been provided. Mayor Setteducati elaborated on the subject of public record requests by stating that the municipality had spent hundreds and hundreds of hours on processing OPRA requests by individuals who already had the documents and some who never even picked up the documents after much research, resulting in an even greater strain on the municipality and borough clerk in terms of expense and labor than police overtime.

☞ Due to time, **motion** to close the meeting for comments from the public was moved by Councilman Belli, seconded by Councilman Milone and carried unanimously.

XVII. CONSENT AGENDA-Resolution No. 167-06

☞ **Motion** to approve the Consent Agenda Resolution No. 167-06 was moved by Councilman Belli, seconded by Councilman Heyer and approved unanimously by roll call vote of 5-0.

RC: Council members

- Milone-yes
- Costantin-absent
- Belli-yes
- Heyer-yes
- Todd-yes
- Hoffman-yes

- Ca 168-06 Approve the Extension of the Borough Administrator’s Contract to 2009 and subsidizing his certification courses in pursuit of a Certified Municipal Finance Officer certification
- Ca 169 -06 Approve Community Development Block Grant funds for the purpose of using \$3,000.00 for Senior Citizens Activities
- Ca 170-06 Approve the purchase of a HVAC/heating replacement unit for the Emerson Public Library from TRANE for \$54,800
- Ca171-06 Approve a Special Permit for a Social Affair for Assumption Church at a Casino Night on October 14, 2006
- Ca172-06 Authorize the Borough Administrator to advertise for a full and/or part time Police Dispatcher for the Emerson Police Department
- Ca173-06 Approve the hiring of (3) three Part time Crossing Guards
- Ca174-06 Approve Person-to-Person Transfer of Liquor License # 0214-33-003-003 to Cheng Investments, Incl. from Emerson Enterprises

XVIII. CLOSED SESSION RESOLUTION No. 175 -06

☞ **Motion** to close for an executive session to discuss matters exempt from the public as duly noticed by Resolution No. 175-06 was moved by Councilman Heyer, seconded by Councilman Milone and carried unanimously.

#06-9/5-33 Personnel-Police Chief Saudino

Mayor Setteducati recused himself from the closed session meeting and it was established that the closed session meeting would be recorded.

XIX. RECONVENE

☞ **Motion** to reconvene was moved, seconded and carried.

XX. CLOSED SESSION ACTIONS

Resolution No. 176-06: Filing Disciplinary Charges against Police Chief Saudino

Mr. Smith read the proposed resolution for the record and is attached to these minutes.

Prior to a motion being made, Councilman Hoffman requested that Councilman Belli recuse himself from the vote since the purpose of the vote was to cure any possibility of a conflict of interest taken at the first vote on July 11th. He further explained that at that time Councilman Belli was not a member of council; Councilmen Camporeale was; and therefore, in his opinion, it would make a travesty the vote if Councilman Belli were allowed to vote. Councilman Hoffman again requested that Councilman Belli recuse himself.

Mr. Smith explained that the resolution was a reconsideration of the matter and did not relate back to the previous resolution. Although the resolution was similar in form to the prior resolution of July 11th, in his opinion, the only requirement Councilman Belli need satisfy was that he had reviewed and understood the report of Ruderman and Glickman of July 11 and was personally convinced that he had enough information and common knowledge to vote.

Councilman Hoffman asked Mr. Smith to state again the purpose of the re-vote and Mr. Smith replied that the purpose was to eliminate the issue raised by Chief Saudino's attorney who argued that since Mayor Setteducati was named in the letter and had criticized the letter, it created a conflict and Mayor Setteducati should not have voted.

Councilman Hoffman argued that if Mayor Setteducati had not voted the first time; and Councilman Belli was not here at that time; he maintained his position that Councilman Belli should not be able to vote now.

Mr. Smith countered that, in his opinion, the vote was of that evening in regard to issues presented that day with the understanding that Councilman Belli was cognizant of all the facts. In his opinion, there was no reason for Councilman Belli not to vote providing that he had read the report and Mr. Smith did not believe there were any issues presented that evening that were not presented the first time.

APPROVED 12/013/06

Councilman Heyer queried Councilman Belli if had read the Ruderman and Glickman report and Councilman Belli responded that he had.

☞ **Motion** to approve Resolution 176-06 was **moved** by Councilman Milone, seconded by Councilman Todd and carried by roll call vote of 3-0.

RC: Council members

Milone-yes
Costantin-absent
Belli-yes
Heyer-no
Todd-yes
Hoffman-no

Councilman Hoffman exited the council chambers and did not return for the remainder of the meeting.

Mayor Setteducati, after his absence from the council chambers during the closed session, returned to the dais in the council chambers.

Second Closed Session

☞ **Motion** to move in to a second closed session to discuss matters exempt from the public; specifically, a personnel matter in regard to police dispatchers was moved by Councilman Milone, seconded by Councilman Todd and carried.

XXI. RECONVENE

☞ **Motion** to reconvene was moved, seconded and carried.

XX. CLOSED SESSION ACTIONS

a) Advertising for Full time and Part time dispatchers

☞ **Motion** to authorize the Borough Administrator to advertise for full and part-time dispatchers was moved by Councilman Belli, seconded by Councilman Milone and carried unanimously.

In addition, Councilman Belli suggested posting an employment ad at local community colleges.

b) Hiring of a Full time Police Dispatcher

☞ **Motion** to hire Mark Bensen as a full time police dispatcher for a probationary period of sixty days contingent on a satisfactory background check at the hourly rate set by the 2006 salary ordinance was moved by Councilman Todd, seconded by Councilman Milone and carried by a roll call vote of 3-0.

RC: Council members

APPROVED 12/013/06

Milone-yes
Costantin-absent
Belli-yes
Heyer-no
Todd-yes
Hoffman-absent

XXI. ADJOURNMENT

☛ With no more business to discuss, **motion** to adjourn was moved, seconded and carried at 11:35 p.m.

Carol Dray, RMC

October 30, 2006