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MAYOR AND COUNCIL MINUTES

Regular Meeting

Tuesday, August 21, 2007

7:30 P.M.

BOROUGH HALL COUNCIL CHAMBERS

Municipal Place

Emerson, NJ 07630

Call to Order

Mayor Lamatina called the meeting to order at 7:34 pm. Mr. Fishbone led the salute to the flag followed by moment of silence at the request of Mayor Lamatina.

O.P.M.A. Statement

Mayor Lamatina read the Sunshine Statement declaring that the meeting of August 21, 2007 had been adequately noticed and was in compliance to the to the provisions of the Open Public Meetings Law. Further, that the meeting of **August 21, 2007** was included the Annual Meeting Notice Resolution sent to the Bergen Record and Ridgewood News on December 14, 2006 and advertised in said newspapers; posted on the bulletin board in the Borough Hall, Municipal Place, Emerson, NJ 07630 on December 14th, 2006 and has remained continuously posted as the required notices under the Statute.

In addition, a copy of this notice is 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
Councilwoman Marcia DeSalvo-Present
Councilman Christopher Heyer-Present
Councilman Kenneth Hoffman-Present
Council President Loffredo-Present
Councilman Francis P. Milone, Jr.-Absent
Councilman Brian Todd-Absent

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

6. Approval of Minutes

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The **Regular Meeting of 3/20/07** was approved on a motion made by Councilwoman DeSalvo, seconded by Council President Loffredo and carried unanimously.

The **Special Meeting of 5/8/07** was approved on a motion made by Councilman Hoffman, seconded by Councilman Heyer and carried unanimously.

The **Regular Meeting of 5/15/07** was approved on a motion made by Councilman Hoffman, seconded by Councilwoman DeSalvo and carried unanimously.

The **WS/Regular Meeting of 6/12/07** was approved on a motion made by Councilman Hoffman, seconded by Councilwoman DeSalvo and carried unanimously.

The **Regular Meeting of 6/19/07** was approved with corrections on a motion made by Councilman Hoffman, seconded by Councilman Heyer and carried unanimously.

The **WS/Regular Meeting of 7/10/07** was approved with corrections on a motion made by Councilman Heyer, seconded by Councilwoman DeSalvo and carried unanimously.

The **Regular Meeting of 7/17/07** was approved on a motion made by Councilwoman DeSalvo, seconded by Council President Loffredo and carried unanimously.

The **WS/Regular Meeting of 8/7/07** was approved with corrections on a motion made by Councilman Hoffman , seconded by Councilwoman DeSalvo and carried 3-0. Councilman Heyer abstained because he was not present at that meeting.

7. CORRESPONDENCE

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

#07-69 letter dated 7/17/07; re: Bergen County Senior Picnic

#07-70 letter dated 7/13/07; re: Legislative Leases with Local Governments and School Districts

#07-71 letter dated 7/17/07; re: Ackerman Park Basketball Rehabilitation, Cty. Executive D. McNerney

#07-72 letter received 7/30/07, re: 20% by 2020 Program, BPU, State of NJ

#07-73- letter dated 7/27/07, re: Gallo v. Borough, Job & Job

#07-74- letter date 7/27/07; re: League's Annual Audit Statement, W. Dressel

#07-75-letter dated 7/26/07, re: Sign on letter in support for Off-road Vehicle Use Legislation, K. Schvedjda

#07-76-letter dated 8/1/07, re: Emerson Traffic Counts, F. Ahmad

#07-77 letter dated 7/31//07, re: Bond Release- Emerson Senior Housing, D. Watkins

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#07-78 letter dated 7/27/07, re: Town Hall Meeting, Woodcliff Lake, Sen. Cardinale, Assemblyman John E. Rooney & C. Vandervalk

#07-79 letter dated 8/2/07, re: PARIS Grants, Assemblywoman C. Vandervalk

#07-80 letter received 8/8/07, re: Commuter Parking, L. Steinbocker

#07-81 letter dated 8/6/07, re: 200 Club of Bergen County Appropriations Committee, 200 Club

#07-82 letter dated 8/10/07, re: 18 Pine Dr., R. Johnson

#07-83 letter dated 7/31/07, re: DPW Recycle Center

#07-84 letter dated 8/11/07, re: POW/MIA Recognition Day, County Executive D. McNerney

8. PROCLAMATIONS AND PRESENTATIONS

None

9. APPOINTMENT AND PERSONNEL CHANGES

a) **Accept Resignation: Electrical Sub-Code-George Pedersen**

Motion: Hoffman

Second: Loffredo

Carried: Unanimous

10. OLD BUSINESS

a) ORDINANCES-FIRST READING

1332-07 AN ORDINANCE AMENDING THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF EMERSON BY AMENDING CHAPTER 246 ENTITLED SOLID WASTE AND CHAPTER 222 ENTITLED RECYCLING TO DELETE ANY REFERENCES TO THE REQUIREMENT OF UTILIZING REFUSE "STICKERS" BY BOROUGH RESIDENTS WHICH ARE NO LONGER REQUIRED NOR USED BY THE BOROUGH OF EMERSON

Motion to introduce on First Reading: Hoffman

Second: DeSalvo

Roll Call:

DeSalvo-yes

Hoffman-yes

Loffredo-yes

Heyer-yes

Mayor Lamatina announced that Ordinance No. 1332-07 was duly approved unanimously on first reading and would be further considered at a Public Hearing to be held on September 18, 2007 at 7:30 p.m. in the

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Council Chambers of the Borough Hall, Municipal Pl., Emerson, N.J and published in the August 31, 2007 edition of the Ridgewood News. Ordinance No. 1332-07 was on file in the Clerk's Office and posted on the official bulletin board of the Municipal Building

b) ORDINANCES-SECOND READING AND PUBLIC HEARING

1327-07 NURSING HOMES AS A CONDITIONAL USE IN THE R-7.5 SINGLE FAMILY ZONE

AN ORDINANCE TO AMEND ORDINANCE NO. 1313-06 ENTITLED "AN ORDINANCE AMENDING THE ZONING CODE OF THE BOROUGH OF EMERSON TO PERMIT NURSING HOMES AS A CONDITIONAL USE IN THE R-7.5 SINGLE FAMILY ZONE"

Councilman Heyer **moved** to open the meeting for public comment on this ordinance only, seconded by Council President Loffredo and carried.

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

☞ **Motion** to adopt Ordinance #1327-07 was **moved** by Councilman Heyer, seconded by Council President Loffredo and carried by roll call vote.

RC: Council members:

DeSalvo-Yes

Hoffman-Yes

Todd-Yes

Loffredo-Yes

Heyer-Yes

Mayor Lamatina announced that Ordinance No. 1327-07 was duly adopted by a vote of 4-0.

1328-07 RAFFLES AND LICENSES

AN ORDINANCE AMENDING THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF EMERSON BY AMENDING CHAPTER 160 ENTITLED GAMES OF CHANCE WITH THE ADDITION OF A NEW SECTION (160-2) TO BE TITLED "RAFFLE AND BINGO LICENSING"

Councilwoman DeSalvo **moved** to open the meeting for public comment on this ordinance only, seconded by Councilman Hoffman and carried.

☞ Seeing no hands, Councilwoman DeSalvo **moved** to close the meeting for public comment, seconded by Council President Loffredo and carried.

☞ **Motion** to adopt Ordinance #1328-07 was **moved** by Councilwoman DeSalvo, seconded by Council Hoffman and carried by roll call vote.

RC: Council members:

DeSalvo-Yes

Hoffman-Yes

Todd-Yes

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Loffredo-Yes
Heyer-Yes
Milone-Yes

Mayor Lamatina announced that Ordinance No. 1328-07 was duly adopted by a vote of 4-0.

1329-07 REGULATING BLOCK PARTIES

AN ORDINANCE AMENDING THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF EMERSON BY ADDING CHAPTER 100 ENTITLED BLOCK PARTIES AND STREET CLOSURE

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

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

☞ **Motion** to adopt Ordinance #1329-07 was **moved** by Councilman Hoffman, seconded by Councilman Heyer and carried by roll call vote.

RC: Council members:

DeSalvo-Yes
Hoffman-Yes
Todd-Yes
Loffredo-Yes
Heyer-Yes

Mayor Lamatina announced that Ordinance No. 1329-07 was duly adopted by a vote of 4-0.

1331-07 AMENDING BOND ORDINANCE 1322-07

BOND ORDINANCE AMENDING SECTIONS 4C, 4D, 4F, SECTION 5 AND SECTION 10 OF ORDINANCE NO. 1322 OF 2007 ADOPTED ON APRIL 24, 2007 IN AND BY THE BOROUGH OF EMERSON, IN THE COUNTY OF BERGEN, STATE OF NEW JERSEY WHICH ORIGINAL ORDINANCE AUTHORIZED THE MAKING OF VARIOUS PUBLIC IMPROVEMENTS AND THE ACQUISITION OF NEW ADDITIONAL OR REPLACEMENT EQUIPMENT AND MACHINERY, INCLUDING ORIGINAL APPARATUS AND EQUIPMENT, IN, BY AND FOR THE BOROUGH OF EMERSON, IN THE COUNTY OF BERGEN, STATE OF NEW JERSEY, TO APPROPRIATE AN AMOUNT NOT TO EXCEED \$855,000 TO PAY THE COST THEREOF, TO MAKE A DOWN PAYMENT, AND 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

Council President Loffredo **moved** to open the meeting for public comment on this ordinance only, seconded by Councilman Heyer and carried.

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

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☞ **Motion** to adopt Ordinance #1331-07 was **moved** by Council President Loffredo, seconded by Councilman Heyer and carried by roll call vote.

RC: Council members:

DeSalvo-Yes

Hoffman-Yes

Todd-Yes

Loffredo-Yes

Heyer-Yes

Mayor Lamatina announced that Ordinance No. 1331-07 was duly adopted by a vote of 4-0.

Discussion:

a) No left-hand turn sign, Old Hook, by farm

The draft prepared by the Borough Clerk to amend the Code of Emerson prohibiting certain left hand turns by the recommendation of the Chief of Police would be introduced at the September 18th meeting of the Mayor and Council pending the borough attorney's review and approval.

Mr. Scarpa referenced a letter from a resident (#07-80) with a commuter parking concern and advised the Council that the complaint would be forwarded to the Emerson Police Department for their evaluation of the situation.

11. NEW BUSINESS

a) Redevelopment

Scott Fishbone of the Atkins Companies and Daniel Horgan, Esq., representing the redeveloper gave a project update for the benefit of the council. The focus of the update was the proposed "Letter of Intent" which included benchmarks that the four (4) entities, Borough of Emerson, Atkins, Bergen County and New Jersey Transit Corporation would agree to implement towards the goal of achieving the Redevelopment in good faith and expeditiously. This agreement would further provide for the recognition and acceptance of the respective planning and development interests of each entity accordingly:

- 1) NJ Transits' expansion and improved operation of rail service,
- 2) Bergen County's improvement to Kinderkamack Road to provide remediation and/or elimination of existing congestion
- 3) the Borough of Emerson's goal to achieve redevelopment consistent with the its plan and
- 4) Atkins goal of incorporating and coordinating the all of the above in cooperative financially feasible effort.

The benchmarks discussed that each entity would agree to were:

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- 1) Atkins would present a traffic plan for Kinderkamack Road within 45 days
- 2) The parties would negotiate in good faith to finalize agreement on such plan between Emerson and Atkins within 30 days thereafter.
- 3) Atkins would present a preliminary plan for NJ Transit Corporation facilities concurrently with its traffic plan, consistent with such plan.
- 4) The parties would use their best efforts to secure the conceptual approval of New Jersey Transit Corporation to such transit facility plan as they together agree upon within 60 days of Atkins presenting it to Emerson.

After a lengthy discussion, the council also included the benchmark of an adequately noticed town meeting to be held no later than 20 days after the acceptance of the County's traffic flow plan for Kinderkamack Road. The Atkins Company acknowledged and agreed upon attending the town meeting with their engineers and the County.

Mr. Fishbone acknowledged that a fair number of people in the Redevelopment area had contacted him about the acquisition of their properties but nothing had yet transpired near the contract stage.

Mayor Lamatina remarked for the record that a property owner south of Arthur's had submitted a plan to the Planning Board; however, the legality of the matter was under review and Mayor Lamatina would seek the guidance of the borough attorney.

Councilman Heyer opined that it was essential that the next necessary steps be made in order to move forward quickly in cooperation of the other entities to achieve the redevelopment goal.

Mr. Boggia gave his views as to why this was an appropriate time for an update of the progress of the Redevelopment with the developer present. He explained that because of the enormity and complexity of the project several problems would need to be resolved before any buildings could be designed. He summed up what had transpired over the first 90 days since the redeveloper's appointment and the expectations that both parties should realize moving forward and in anticipation of the more comprehensive Developer's Agreement. The letter of understanding discussed that evening contained fair and reasonable benchmarks that stood as target dates to keep the project moving along and to maintain an ongoing dialogue with NJ Transit and the County.

Mr. Horgan disclosed that NJ Transit maintained that they did not have enough capital to fund a new platform or additional parking; just for expanding the trains themselves. He added that; although, the concept

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of the “bowtie” plan by the County was good they had been operating in a vacuum without the input of NJ Transit. He suggested that all the parties discuss the concept in the same room at the same time. In his opinion, and from his experience, if the County and NJ Transit were presented with a local plan that had the support of the municipality; they would be more likely to listen and work with the municipality and would be hard press not to.

Mayor Lamatina commented that the County was owed a response to the Kinderkamack Road modifications plan that they had prepared and it was his intent that they be notified the next day.

Mayor Lamatina added that the letter of intent with the Atkins Company would continue in closed session page by page for comments from the borough attorney who had been negotiating some modifications to the document with the developer’s attorney, Mr. Horgan.

Councilman Hoffman remarked he was pleased with the amount of communication between the County and the mayor as opposed to the lack of communication in the past and felt it would bode well for the town.

Mayor Lamatina explained that the Borough Administrator’s responsibility was to follow up with the developer on a daily basis and complimented Mr. Scarpa for his hard work and effort as did Councilman Hoffman.

Mayor Lamatina asked Mr. Fishbone and Mr. Horgan to remain until after the closed session to hear what action the governing body would take.

12. REPORTS

a) Mayor and Council Reports

Councilwoman DeSalvo gave the **Board of Education** Report and reported the salary percentage increases for the contract bargaining units. The Board was in the process of being audited and looking into the viability of all-day Kindergarten. Their goals were increasing security and academic standards. The next Board of Education meeting was scheduled for August 27th at 8:00 p.m. in the high school media center.

Councilman Hoffman commented that he would need to summarize the **Fire Department** report before presenting it and he had met with Council President Loffredo about creating a Historic Preservation Commission and would be meeting with a county consultant, Robin

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Brown. His expectation was to present a document for discussion by late September in anticipation of adoption by the end of the year. Mayor Lamatina reminded Councilman Hoffman to consider that some of the historic buildings could be in the Redevelopment area.

Mayor Lamatina reported on the status of the Pascack Valley Mayors' Association organized movement against the **FAA and also** mentioned that Carter Strickland would be a guest at their meeting on September 5th. Mr. Strickland had agreed to consider approving a cap on his retainer to represent them. The Mayors' Association was looking for more support to reduce costs.

Council President Loffredo would present a comparative **Police Report** at the next meeting and would provide an update on the Police Chief's contract in closed session.

Councilman Heyer gave the **Building Department** activity report for the month of July reporting that the total revenue generated for the year to date was \$185,676.

b) Office of the Borough Administrator

Mr. Scarpa reported that the borough:

- Received a \$3,400 grant from the 200 Club for the Fire Department and a commitment that they would provide stickers for the new boat
- Was granted an extension for the grant award of \$20,000 that had technically expired for a study on police share services with Westwood. He recommended after consultation with Chief Saudino that it be used towards the study of a joint pistol range between two towns with Westwood as the lead agency. The governing body agreed by general consensus.
- Had not received any word on the federal grant application for the Fire department for \$522,000 for a pumper and \$184,000 for radio equipment
- Had received \$10,000 check from the JIF for the removal of an underground storage tank at the DPW
- Received a clean report from the DEP in compliance to sixty eight Storm water
- Now has Security cameras installed in and around the borough hall funded through the bond
- Road resurfacing had been completed at Orchard and Second Street and he would look into why the entire part of Orchard was not done.
- Had received the new equipment from Sunset Park and would be installed shortly.
- Is advertising for both an electrical inspector and Deputy Clerk and receiving applications

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- Would be applying for an Open Space Grant for \$100,000, matching \$50,00, by the deadline October 1st for a retaining wall and sprinkler system at Hillman Park and various equipment for baseball
- Had completed and submitted the COAH report on time
- Had received an excellent bond rating of AA
- Might consider using a new agency, Virtual Town Pages, for the borough newsletter using advertisers to finance the publication at no charge to the borough. However, the company would like to send out a newsletter 10 times a year. Mayor Lamatina added that more borough information could be disseminated by using it and was in support of it. The council was in general consensus of exploring the opportunity.

c) Office of the Municipal Clerk

Ms. Dray reported that she had received about six applications for the position of Deputy Clerk; none of which stood out as viable candidates, but the ad was still running and hoped to have the position filled shortly.

d) Borough Attorney had nothing to report in open session.

13. 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 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 ejection from the council chambers.

Motion to open the meeting or comments from the public was moved by Council President Loffredo seconded by Councilman Hoffman and carried unanimously.

Tom DeScisciolo, 64 Dyer Ave., was in support of Redevelopment but was opposed to eminent domain and McMansions.

Richard Samuels, 32 Ross Ave., commented upon a long term drainage issue along an easement behind his home and was concerned that the

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work being done on another home in the immediate area might further exacerbate his flooding problem. He inquired as to when the borough would be doing something about the situation. Mayor Lamatina offered that the borough would seek the professional advice and comments of the borough engineer who, Mr. Samuels' claimed, had knowledge of the matter.

14. CONSENT AGENDA-Resolution No. 138-07

Mayor Lamatina pulled Resolution Nos. 144-07 and 145-07 from the Consent Agenda for postponement of a vote and No. 146-07 since it was a duplication of No. 148-07.

☞ **Motion** to approve the Consent Agenda Resolution No. 138-07 was moved by Councilwoman DeSalvo; seconded by Councilman Hoffman and approved unanimously by a 4-0 roll call vote.

RC: Council members:

DeSalvo-Yes

Hoffman-Yes

Todd-Yes

Loffredo-Yes

Heyer-Yes

Ca 136-07 Bill List

Ca 137-07 Investments

Ca 140-07 Community Development Block Grant of \$3,000.00 for Senior Citizen Activities

Ca 141-07 Community Development Block Grant of \$30,000.00 for Curb Cuts

Ca 142-07 Raffle License 50/50 Off Premise for K of C #5819 Our Lady of Assumption

Ca 143-07 Authorizing Payment of \$23,763.50 to Gordon Ford Inc.

Ca 144-07 Carter Strickland for \$5,000-**PULLED**

Ca 145-07 Award Copier Lease-**PULLED**

~~Ca 146-07 Authorize Mayor Lamatina to sign an agreement for \$3,500 with PMK for Spill Prevention Control Compliance Services~~ **Duplication**

Ca 147-07 Approve Night at the Races, KOC

Ca 148-07 Authorize Borough Administrator to enter into an Agreement with The PMK Group for Spill Control Plan for \$3,500

Ca 149-07 Approve Raffle for Assumption Church #502-07 Night at the Races to be held on November 17, 2007

Ca 150-07 Approve Block Party Permit Residents of Highland Avenue between Kinderkamack Road and High Street on September 1, 2007, Rain Date: 9/2

15. CLOSED SESSION RESOLUTION No. 139-07

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Prior to recessing into closed session, Mr. Boggia inquired of Mr. Horgan if had been agreeable to the changes that Mr. Boggia had made to the letter of intent and subsequently, had faxed back to him. Mr. Horgan replied that he took no objection to most, if not all of them, and had, in fact, inserted them into his draft.

☛ **Motion** to close for an executive session to discuss matters exempt from the public as duly noticed by Resolution No. 139-07 included *three new matters not previously noticed was moved by Councilman Heyer, seconded by Council President Loffredo and carried unanimously.

Personnel: Chief's Contract

*Personnel: Atkins Companies Letter of Intent

*Litigation: Former Borough Attorney's and Former Labor Attorney's Billing Statement

16. RECONVENE

Motion to reconvene was moved, seconded and carried.

17. ACTIONS TAKEN AS A RESULT OF CLOSED SESSION DISCUSSION

a) Redeveloper Letter of Intent

Motion to proceed with the agreement of intent with The Atkins Companies subject to the comments discussed by the borough attorney including and in anticipation of a town meeting in October was moved by Councilman Heyer, seconded by Council President Loffredo and carried unanimously by roll call vote.

RC: Council members:

DeSalvo-Yes

Hoffman-Yes

Todd-Yes

Loffredo-Yes

Heyer-Yes

18. ADJOURNMENT

With no other business to address, at the request of Mayor Lamatina, Councilman Heyer **moved** to adjourn the meeting, seconded by Council Hoffman and carried 10:35 at p.m.

Carol Dray, RMC, CMC

September 6, 2007