

MINUTES
BOROUGH OF EMERSON
MAYOR AND COUNCIL
Regular Meeting
Closed (Executive) Session
Tuesday, March 7, 2006
8:00 P.M. Council Chambers
Municipal Building
Emerson, NJ 07630

This meeting was called to order at 8:10 pm. Maggie Fazeli Fard led the Salute to the Flag followed by a moment of silence.

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 **March 7, 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.

ROLL CALL

Councilman Carlo Camporeale-Arrived at 8:15 p.m.
Councilwoman Carole Costantin-Present
Council President 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 Clerk, Carol Dray and Borough Attorney, William Smith.

APPROVAL OF MINUTES

Motion to approve the minutes of the **Regular Meeting of February 7, 2006** was moved by Councilwoman Costantin, seconded by Councilman Camporeale and carried unanimously with corrections.

PROCLAMATIONS & PRESENTATIONS

Dr. Rishi Raj was not present to accept his award for Outstanding Achievement in Community Service and the matter was postponed until the next meeting of the Mayor and Council.

APPOINTMENTS AND PERSONNEL CHANGES

1. **Motion** to accept the resignation of Mike Slepian from the Environmental Commission effective immediately was moved by Councilman Hoffman, seconded by Councilman Milone and carried unanimously.

2. **Motion** to withdraw the appointment of Edward Mills as an Emerson Fire Inspector was move by Councilman Milone, seconded by Council President Todd and carried unanimously.

CORRESPONDENCE

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

#06-18 letter dated 2/23/06, re: Statewide Solid Waste Management Plan, DEP

#06-19 letter dated 2/23/06, re: Improvement of Chestnut Street, Job & Job

#06-20 letter dated 3/2/06, re: Sewer Connection Fee, BCUA

#06-21 letter received 3/6/06, re: CDBG Program, D. McNerney, County Executive

UNFINISHED BUSINESS:**NEW BUSINESS:**1. Hackensack Golf Club

Mr. Smith explained that, as part of the Revaluation process, there was a need to determine the number of one-acre lots amortized in the value of the Hackensack Golf Club should they choose to rezone and the Borough Engineer indicated that it would cost \$2,500 to analyze the property.

Resolution No. A10-06

☞ **Motion** to authorize a \$2,500 expenditure for Ken Job to analyze the potential development of the Hackensack Golf Club was moved by Council President Todd, seconded by Councilwoman Costantin and carried unanimously.

2. Revaluation

Claire Psota, Emerson Tax Assessor, Ernest Del Guercio, President and Rick Del Guercio, Vice President of Appraisal Systems were present to explain the revaluation process to the governing body. A public hearing would be held at a later date. Mr. Del Guercio gave a comprehensive overview of the process ordered by the Bergen County Board of Taxation to revalue all properties at 100% market value using the same standard of value. Mr. Del Guercio stated that the number one goal of a revaluation is to make sure that everyone is assessed fairly by the same standard and that it would be revenue neutral. A revaluation did not raise taxes, he explained, it simply made uniform the valuation of each particular piece of residential property in a municipality so that when a tax rate is applied everyone is assured of paying their fair share. The number two goal was to do it as close to 100% of the market value, which could be a little bit more subjective. Personal informal hearings by appointment at the Borough Hall would be available before the filing of the taxes should a resident request it.

Mayor Setteducati reiterated that it was revenue neutral, inasmuch that some values would go up, some would go down and some would remain the same.

3. Amend Ordinance No. 881-Chapter 150-Fire Prevention

Mr. Boccio explained his reasons for amending the ordinance and increasing the inspection of non-Life Hazard uses to \$65.00. When asked by Councilman Hoffman why the fee increase wasn't in line with other municipalities, Mr. Boccio replied that he wanted to do more research but only had a month to prepare and many of the inspections should have already begun. For the Council's edification, Mayor Setteducati remarked that due diligence had not been followed in regard to the previous inspecting of non-life hazards. Mr. Smith would prepare the ordinance for the next meeting.

4. No Parking-Union and Palisade Ave.-Council President Todd explained that people are using an empty borough lot to park and it was suggested to him that a no parking sign be erected. Mr. Smith advised that no one had a right to use borough property for their own use and a no parking sign or fence could be installed to discourage the practice. The Council was in general consensus to Mr. Smith's resolution to the problem.

The **Administrator's Report** was absent due to bereavement leave.

The **Borough Clerk** had no report to give.

The **Borough Attorney** had no report in open.

PUBLIC COMMENT

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.

☞ Councilman Camporeale **moved** to open the meeting for comments from the public, seconded by Council President Todd and carried unanimously.

Lt. Donald Rossi, Emerson Police Department, Schedule Committee, announced that the Police Captain would be out for the next 6-8 weeks due to an accident and the lay off of Daniel Kalyoussef for the last payroll period cost the borough \$5,311.80. Lt. Rossi was looking forward to the quarterly meeting to educate the Police Committee in regard to the impact of the layoff on the schedule. He also stated it had been previously agreed that the police schedule would be left to the professionals and he was disappointed and considered it deceitful that a handout was distributed after the close of Public Comment.

Jeff Bischoff, 86 Park Ave., questioned who ordered the Fisher Report and its cost and whether the advice of the expert was taken. Mayor Setteducati replied by explaining in detail those suggestions that were taken from Dr. Fisher's report especially in regard to scheduling crews for a 12-hour shift workweek. Mr. Bischoff also questioned budget numbers given to him by the Borough Administrator but the Council would not address

them in the absence of the Administrator. Mr. Bischoff then asked if any labor laws had been broken in regard to the laying off of Daniel Kalyoussef and Mayor Setteducati replied that he hoped not. Mr. Bischoff wondered why a voucher for an out of cash expense by the Police Chief at the Police Open House had not been paid back to the Police Chief and if a formal investigation in regard to that matter had begun with taxpayer's funds. Mayor Setteducati replied that he would not entertain the question since it was a personnel matter. Councilman Hoffman interjected that he had asked the same question but had not received an answer later adding that the Mayor refused even to tell the rest of the governing body what was going on. Mayor Setteducati explained that they were not at liberty to discuss those matters at this time reminding Mr. Bischoff that public comment was not an inquisition encouraging him to move off the subject. Mr. Bischoff continued by asking whose idea it was to distribute the hand out after the close of public comment at the last meeting and Council President Todd responded that it was his. Mr. Bischoff ended by asking if the publication of the Police Chief's salary on the agenda was meant to embarrass him.

Daniel Kalyoussef, former Emerson Police Officer, read his opinion in objection to the handling of his layoff from the police department.

Chief Saudino, Emerson Police Department, was asked to participate in a closed session later in the meeting by Mayor Setteducati and responded that he would adding that he would have appreciated more of a notice. He commented that he was opposed to the wording on the agenda exploiting his salary adding that he had never seen a personnel matter listed on the agenda with a narrative of what it was in reference to and claimed the language used was misleading to the taxpayers. Instead, in correction, he alleged that his contract had been violated forcing him to seek an attorney for money that was due him.

Kevin Smith, 97 Orchard Avenue, was concerned about the police department overtime budget and where the money came from to cover over expenditures. Councilman Camporeale replied that it would come from unused funds from other departments if it were to exceed what had been originally budgeted for or from the next year's budget. Mayor Setteducati discussed the personnel increase in the Police Department over the last few years and Chief Saudino's 15.5% budget request increase and its impact on the municipal budget. He added that even without the extra officers the borough would have been over the CAP and the Police Committee, although they did not disclose their intention to layoff a police officer, did discuss the Chief's budget with him. Mr. Smith wondered if another officer would be hired as a result of the excess in overtime and if the Police Committee had discussed what it would do to save the money.

Bob Belli, 57 Longview Rd., remarked that the Emerson High School Wrestling Program had three wrestlers who made it through the Regionals and would be going to the State Championship. He asked that the Mayor and Council recognize this important achievement.

Tom Fagan, 177 Colonial Road, respectfully asked Councilwoman Costantin to consider rehiring Mr. Kalyoussef, read out loud an obscene email that was sent to Councilman

Hoffman and insisted that the Ethics Committee investigate the matter. Mr. Fagan asked Councilwoman Costantin if she had known about the email and she replied that she did but that Chief Saudino had asked her to keep it confidential and not to say anything about it to anyone. Chief Saudino confirmed her statement. She denied sharing the existence of the email with anyone on the Council. The matter had already been under investigation by the Emerson Police Department and the governing body denied having any knowledge of the author of the obscene email. Councilman Hoffman disclosed that he had brought the matter to the Emerson Police Department and the County Prosecutor but the trail of the email ended in Canada. . Mayor Setteducati stated this was the first time he had heard about this email, he knew absolutely nothing about it adding that he, too, receives similar obscene emails and even threatening ones but does not bring them to the attention of the Council as he considered them nonsense and knew that the Council cannot do anything about them.

Helen DeScisciolo, 64 Dyer Ave., was shocked by what she had heard and felt it was the obligation of the governing body to check into who wrote and sent the email to Councilman Hoffman.

Mike Galasso, 1 Daned Road, was puzzled by the governing body's attitude towards the police budget and schedule reminding them that they were not in heaven and Emerson was not crime free. Mr. Galasso and Mayor Setteducati entered into a debate over the exact translation of a 2.16 days workweek. Mr. Galasso thought that the officer should be rehired because the borough was in need of a 19th man, and in his opinion would save money in a long run.

Marcia DeSalvo, 3 Valleybrook Drive, was disheartened by the continuing tone of the meetings and pleaded with the two factions to come to an agreement so as not to continue the mudslinging in the best interest of the residents.

Randy Sturm, 38 George Road, did not feel safe at night and his son had been traumatized and was under the care of a doctor since an incident when a police officer had threatened him in front of his children.. Mr. Sturm had filed a complaint last year against the police officer. Mr. Sturm wondered if the town was less safe since the lay off of an officer and Mayor Setteducati replied that the question would garner mixed opinions.

Michael McDermott, Emerson Police Department and President of Local 206, read a letter from the PBA containing a vote of no confidence in Council President Todd's ability to fairly and honestly act as a liaison to the Council by his failure to act in the best interest of the department and the borough and demanded his resignation. The letter also requested that the entire governing body be made the appropriate authority in the matters of the Emerson Police Department claiming the current process had been corrupted by blind obedience and was detrimental to the Emerson Police Department. The letter was signed by every member of the Emerson Police Department and Officer McDermott presented it to the Borough Clerk.

Councilman Hoffman responded that it was clear that the Police Committee was not working and recommended that it be abolished and returned to the authority of the entire governing body.

Mayor Setteducati disagreed 100% claiming he was proud of the job the Police Committee was doing by not caving into the Police Department's every request and by not approving a 15.5% increase in the Police Department budget adding that the Police Department's salaries were astronomical. He stated that Council President Todd had done an admirable job standing up to the pressures of self-serving people. Mayor Setteducati claimed that he had heard from many residents who were in support of the Police Committee's efforts. Councilman Hoffman argued that what the people did not realize was that many of the members of the governing body were left out of the loop when it came to the activities of the Police Committee and that was his reason for his recommendation that the proper authority be transferred to the entire governing body.

Council President Todd challenged Councilman Hoffman on the secrecy of the disclosure of the investigation into his receipt of an anonymous obscene email and Councilman Hoffman, Mayor Setteducati and Council President Todd engaged in a debate in regard to what the differences were in respect to the handling of Police Committee matters.

Councilman Camporeale reminded the council members of the original intention and purpose of forming the Police Committee as the proper authority as he had understood it at the time claiming he had not envisioned when he voted on it that they would be undertaking investigations without the knowledge of the rest of the council. He objected to any secret activities without the knowledge of the entire governing body elected by the people and he felt he was obligated to know of an investigation in the event any resident should question him. In his opinion, anything that went on ultimately should be brought to the attention of the entire governing body and those matters which were confidential should be discussed in closed session in disparity to some of the comments previously made.

Mayor Setteducati explained the procedure of the Police Committee and its reporting obligations to the rest of the Council and Councilman Camporeale argued that the entire governing body should be notified of any lengthy investigations and the two or three Police Committee members involved should report back to the council at the bi-monthly meetings. Mayor Setteducati agreed to take Councilman Camporeale's concerns under consideration.

Chief Saudino, Emerson Police Department, asked Councilwoman Costantin if it was true that during a conversation in his office she admitted that as the Deputy Police Commissioner, she too, felt out of the loop in regard to certain Police Committee matters. Chief Saudino denied threatening Councilwoman Costantin that if she did not change her vote in regard to the laying off the police officer he would pack the meetings and Councilwoman Costantin confirmed that the conversation between she and the Police Chief was non-threatening. Mayor Setteducati considered the Police Chief's behavior as "bullying" because he did make the statement about packing the meeting but Chief Saudino maintained that it was Mayor Setteducati who was the bully in his attempts to micro-manage the Police Department. Council President Todd stated that Councilwoman Costantin had been intimately involved in many of the issues related to the Police

Committee objectives and was proud of the work they had done during the collective bargaining negotiations. He added that he had no intention of resigning from the Police Committee but if the Council was so inclined to vote that he submit his resignation, then he would.

Jeff Bischoff, 86 Park Avenue, wondered who had established the Police Committee and how the members were chosen. Mr. Smith replied that it was voted upon by the Council. Mayor Setteducati stated that Chief Saudino had requested that the Mayor be one of the members by a letter but Mayor Setteducati declined to poll the Council if he should remain a member as suggested by Mr. Bischoff adding that he was working very hard in the best interests of taxpayers. Mayor Setteducati also stated that the Police Committee would report back to the Council.

Seeing no other hands, **motion** to close the public comment portion of the meeting was moved by Councilman Camporeale, seconded by Councilwoman Costantin and carried unanimously.

CONSENT AGENDA-Resolution No. 63-06

☞ **Motion** to approve Resolution No.63-06, Consent Agenda, was moved by Councilman Camporeale, seconded by Councilwoman Costantin and carried by roll call vote.

RC: Council members

Milone-yes
 Costantin-yes
 Camporeale-yes
 Heyer-yes
 Todd-yes
 Hoffman-yes

ca64-06 Approve Transfers within the 2005 Municipal Budget
 ca65-06 Opposing SCS-557 which would implement a \$3 per ton tax on all
 garbage collected in New Jersey
 ca66-06 Approve \$1,327.82 for a duplicate tax payment, Block 321, Lot 2

CLOSED SESSION-Resolution No. 67-06

☞ **Motion** to close for an executive session to discuss matters exempt from the public as duly noticed by Resolution No. 67-06 was moved by Councilwoman Camporeale, seconded by Councilwoman Camporeale and carried unanimously.

#06-03/07-08 **Personnel**-Police Chief's request for an additional \$4,000 salary increase in addition to the 5% annual increase already given that would increase his annual salary to \$158,081.

#06-3/21-09 **Personnel**-Police Investigation

#06-3/21-10 **Litigation**-Hofsommer

RECONVENE TO OPEN SESSION

☞ **Motion** to reconvene was moved by Councilman Milone, seconded by Councilman Heyer and carried unanimously.

Hoffsommer Litigation

☞ **Motion** to accept MEL's recommendation to settle the lawsuit filed by Laura Hoffsommer for \$38,000 and authorize payment thereof was moved by Councilman Hoffman, seconded by Councilman Camporeale and carried by roll call vote.

RC: Council members

Milone-yes
 Costantin-yes
 Camporeale-yes
 Heyer-yes
 Todd-yes
 Hoffman-yes

Councilman Camporeale added that if the borough did not settle MEL was telling them that essentially that would not be providing a defense. In the Mayor's opinion, the lawsuit was meritless and he would have liked to have seen the insurance company go the distance and the plaintiff get nothing. Mr. Smith suggested sending a letter to the MEL requesting statistics from other municipalities to use as a comparison as to why Emerson has a \$35,000 deductible.

Seeking Police Department IA information and police personnel files

☞ **Motion** to seek a judgment from a Judge to compel the Police Chief to provide the proper authority access to records in regard to IA information and certain police personnel files from the Police Department in order to adequately evaluate police personnel performance in the event the Police Chief does not provide the information by request of the Council voluntarily was moved by Councilman Milone, seconded by Councilman Heyer and carried by roll call vote.

RC: Council members

Milone-yes
 Costantin-yes
 Camporeale-yes
 Heyer-yes
 Todd-yes
 Hoffman-yes

Appointment of Michael Sartori as a Fire Sub-code Inspector

☞ **Motion** to appoint Michael Sartori as Fire Sub-Code Inspector for the Senior Housing Project and Pascack Valley Shopping Center as discussed at prior meeting to meet the criteria under the Uniform Construction Code for fire inspectors was moved by Councilman Camporeale, seconded by Councilwoman Costantin and carried by roll call vote. The Council would seek recommendations from the Borough Administrator in regard to Mr. Sartori's added compensation upon his return to be approved at the next meeting.

RC: Council members

Milone-yes
Costantin-yes
Camporeale-yes
Heyer-yes
Todd-yes
Hoffman-yes

Police Committee

Councilman Todd offered to resign from the Police Committee if it was the opinion of the Council that he should do so and offered to abstain from any vote on the matter, but the consensus among the Council was unanimous that he remains on the Police Committee with Councilman Hoffman adding providing reports are made to the Council.

Mayor Setteducati elaborated on the motion for police records by request of the reporter.

ADJOURNMENT

With no more business to discuss, **motion** to adjourn was moved by Councilman Camporeale, seconded by Councilwoman Costantin and carried unanimously at 11: 35 p.m.

Carol Dray, RMC

April 27, 2006