



**MINUTES
BOROUGH OF EMERSON
MAYOR AND COUNCIL
January 15, 2019
7:30 P.M.
Borough Hall-Council Chambers
Emerson, NJ 07630**



I. CALL TO ORDER

Mayor DiPaola read the Sunshine Statement announcing that the meeting of January 15th, 2019 had been adequately noticed and was in compliance with the provisions of the Open Public Meetings Law. Further, the meeting notice was transmitted to the Record and Ridgewood News on December 20th, 2018, posted on the bulletin board in the Borough Hall, Municipal Place, Emerson, NJ 07630 and 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.

II. ROLL CALL

PRESENT: Mayor DiPaola, Councilman Bayley, Councilman Falotico, Councilman Gordon, Councilman Hoffman, Councilman Knoller

Also present were Borough Administrator Robert Hoffmann and Borough Clerk Jane Dietsche.

III. EXCUSED ABSENCE OF GOVERNING BODY MEMBER

Mayor DiPaola announced that no members of the Governing Body were absent from the previous meeting.

IV. PROCLAMATIONS & CITATIONS

There were no proclamations or citations.

V. APPOINTMENTS/RESIGNATIONS

- Resolution No. 44-19 Appointment of Borough Attorney - Award Professional Service Contract for a One Year Period using the 'Fair and Open Process' in Accordance with the 'New Jersey Local Unit Pay to Play' Law, N.J.S.A. 19-44a-20.4 et seq., for the Calendar Year 1/1/19 through 12/31/19 to John McCann, Esq., Law Office of John McCann, Esq.

☞ **Motion** to approve Resolution No. 44-19 was **moved** by Councilman Bayley, **seconded** by Councilman Gordon and carried by roll call vote:

RC: Council members:

YES: Bayley, Hoffman, Falotico, Knoller, Gordon

- Swearing in of Borough Attorney John McCann – Mayor DiPaola swore Mr. McCann into office and congratulated him on his appointment.

VI. INTERVIEW AND APPOINTMENT TO FILL COUNCILMEMBER VACANCY

- Nominations:
 - Jill McGuire
 - Don Pierro
 - Michael Timmerman

Mayor DiPaola announced that on December 31, 2018, the Vice Chair of the Emerson Republican Committee had provided the Borough Clerk with the names of three individuals for the open Council seat for the unexpired term ending 12/31/19. She invited the three nominees to sit before the Governing Body; they introduced themselves and each read a prepared statement. At the conclusion of their statements, Mayor DiPaola asked if the Governing Body had any questions. There were none.

☞ **Motion** to appoint Jill McGuire as Councilmember for the unexpired term ending 12/31/19 was **moved** by Council President Falotico, **seconded** by Councilman Knoller and carried by a roll call vote of 5-0:

RC: Council members:

YES: Bayley, Hoffman, Falotico, Knoller, Gordon

Mayor DiPaola and Council President Falotico thanked the other nominees and said there were other opportunities to serve the Borough and looked forward to seeing them in the future at Council meetings as well as other meetings.

- Swearing in of Councilwoman McGuire for the unexpired term vacated by Mayor DiPaola – Mayor DiPaola swore Councilwoman McGuire into office.

VII. ROLL CALL OF COMPLETE 2019 GOVERNING BODY

PRESENT: Mayor DiPaola, Councilman Bayley, Council President Falotico, Councilman Gordon, Councilman Hoffman, Councilman Knoller, Councilwoman McGuire

- Resolution No. 45-19 Ratification of By-Laws with Seating Arrangement and Order of Voting of The Governing Body

The Governing Body agreed to the following seating arrangement for 2019 from right to left facing the dais:

**Councilman Bayley, Councilman Hoffman, Councilwoman McGuire,
Council President Falotico, Councilman Knoller, Councilman Gordon**

☞ **Motion** to approve Resolution No. 45-19 was **moved** by Councilman Hoffman, **seconded** by Council President Falotico and carried by a roll call vote of 6-0:

RC: Council members:

YES: Bayley, Hoffman, McGuire, Falotico, Knoller, Gordon

☞ **Motion** to change the order of business of the meeting was **moved** by Council President Falotico, **seconded** by Councilman Knoller and carried unanimously.

Mayor DiPaola said that they were swapping out the swearing in of Patrol Officer Justin Schwarz in place of Borough Appointments.

- Police Department
 - Swearing in of Justin Schwarz as a Probationary Member of the Emerson Police Department

VIII. APPOINTMENTS/RESIGNATIONS

- BOROUGH PROFESSIONAL APPOINTMENTS Award Professional Service Contract for a One Year Period using the ‘Fair and Open Process’ in Accordance with the ‘New Jersey Local Unit Pay to Play’ Law, N.J.S.A. 19-44a-20.4 et seq., for the Calendar Year 1/1/19 through 12/31/19 unless otherwise stated

Mayor DiPaola announced that Resolution No 54-19 Appointing Boswell Engineering for Three (3) Special Projects was being amended to extend the time frame for the Main Street-Linwood Avenue grant project to May 31, 2019.

☞ **Motion** to approve Resolutions No. 46-19 through 64-19 was **moved** by Councilman Hoffman, **seconded** by Council President Falotico and carried by roll call vote of 5-0 with one abstention:

RC: Council members:

YES: Bayley, Hoffman, Falotico, Knoller, Gordon

ABSTAIN: McGuire

Those present were sworn into office by Mayor DiPaola.

- Resolution No. 46-19 – Alternate/Substitute Borough Attorney – Randy T. Pearce, Esq., Pearce Law, LLC
- Resolution No. 47-19 Appoint Borough Labor Counsel – Catherine M. Elston, Esq., C. Elston & Associates, LLC
- Resolution No. 48-19 Appoint Alternate Labor Counsel – Randy T. Pearce, Esq., Pearce Law, LLC
- Resolution No. 49-19 Ratify Selection of Land Use Board Attorney – Chris Martin, Esq., Morrison Mahoney, LLP
- Resolution No. 50-19 Tax Appeal Attorney – Robert Mancinelli, Esq., Meyerson, Fox, Mancinelli & Conti
- Resolution No. 51-19 Special Counsel Affordable Housing - Brian T. Giblin, Sr., Esq., Giblin & Gannaio, LLC
- Resolution No. 52-19 Special Counsel Redevelopment – Richard Malagiere, Esq., Law Offices of Richard Malagiere
- Resolution No. 53-19 Borough Engineer – Michael J. Neglia, Neglia Engineering Associates
- Resolution No. 54-19 – Borough Engineer for Three (3) Special Projects as Noted in the Resolution – Dr. Stephen Boswell, Ph.D., Boswell Engineering
- Resolution No. 55-19 Auditor – Gary Higgins, Lerch, Vinci & Higgins
- Resolution No. 56-19 Tax Appeal Expert Witness – Appraiser – Robert McNerney, McNerney & Associates
- Resolution No. 57-19 Bond Counsel - Steve Rogut, Esq. Rogut McCarthy LLC
- Resolution No. 58-19 Risk Management Consultant – The Vozza Agency/ Johl & Co.
- Resolution No. 59-19 Grant Writer – Bruno Associates for 90 days
- Resolution No. 60-19 Municipal Prosecutor – Neil Tortora, Esq., Morrison Mahoney for 90 days

- Resolution No. 61-19 Alternate Prosecutor – Andrew M. Cimiluca, Esq., Law Offices of Andrew M. Cimiluca, LLC
- Resolution No. 62-19 Public Defender – Jeff Carney, Esq., Law Office of Jeff Carney for 90 days
- Resolution No. 63-19 Architect – Kevin Settembrino, Settembrino Architects
- Resolution No. 64-19 Planner – Christopher Statile, P. A.
- RESOLUTION NO. 65-19 COUNCIL APPOINTMENT OF CLASS III LAND USE BOARD MEMBER

Mayor DiPaola opened the floor to nominations for the Council appointment of the Class III Land Use Board member. Councilman Hoffman nominated Councilwoman McGuire to be the Class III member of the Land Use Board for 2019. The motion was seconded by Councilman Gordon. There were no other nominations.

☞ **Motion** to appoint Councilwoman McGuire as the Class III member of the Land Use Board was **moved** by Councilman Hoffman, **seconded** by Council President Falotico and carried by a roll call vote of 6-0:

RC: Council members:

YES: Bayley, Hoffman, McGuire, Falotico, Knoller, Gordon

- MAYOR'S APPOINTMENTS
 - Land Use Board
 - Mayor's Appointment of Class IV member for the unexpired term ending 12/31/20 - Michael Myers
 - Mayor's Appointment of Class IV member for the unexpired term ending 12/31/19 – Bill Loschiavo

Mayor DiPaola announced that she was appointing Michael Myers as a Class IV member of the Land Use Board for the unexpired term ending 12/31/20. In addition, she appointed Bill Loschiavo as the Class IV member for the unexpired term ending 12/31/19. Mr. Myers and Mr. Loschiavo were sworn into office by Mayor DiPaola.

IX. MINUTES FOR APPROVAL

- Sine Die/Reorganization Meeting Minutes of January 2, 2019

☞ **Motion** to approve the Sine Die/Reorganization Meeting Minutes of January 2, 2019 was **moved** by Council President Falotico, **seconded** by Councilman Knoller and carried and carried by a roll call vote of 4-0 with two abstentions:

RC: Council members:

YES: Bayley, Falotico, Knoller, Gordon

ABSTAIN: Hoffman, McGuire

X. CORRESPONDENCE

Mayor DiPaola announced that copies of the correspondence were available in the office of the Municipal Clerk.

- Resolutions from Township of Wyckoff, Borough of Maywood, Borough of Fairlawn, Allendale, Borough of Carlstadt; Re: Opposition to Construction of the North Bergen Liberty Generating Gas-Fired Power Plant
- Resolutions from Park Ridge, Fair Lawn, Bogota, Closter; Re: Mutual Aid Plan & Rapid Deployment Force – Interlocal Service Agreement

XI. FINANCIAL BUSINESS

- Resolution No. 66-19 Bill List

☞ **Motion** to approve Resolution No. 66-19 Bill List was **moved** by Councilman Knoller, **seconded** by Council President Falotico and carried by roll call vote of 5-0 with one abstention:

RC: Council members:

YES: Bayley, Hoffman, Falotico, Knoller, Gordon

ABSTAIN: McGuire

XII. UNFINISHED BUSINESS

Mayor DiPaola announced that there was no unfinished business.

XIII. NEW BUSINESS

- Discussion of ordinances related to
 - Creating a Beautification Committee
 - Creating a Special Events Committee

Mayor DiPaola said her intention was to enact ordinances with the purpose of creating two committees so as to include as many residents as possible in local government and get everyone involved. The Beautification Committee would decorate the downtown seasonally to make the area more vibrant and presentable for local residents as well as for those passing through town. The Special Events Committee would coordinate with the Recreation Commission as instant volunteers and support them as well as spearhead new initiatives such as concerts. She also wanted to start a Senior Outreach Committee for seniors and others who felt forgotten. She envisioned volunteers reaching out to call or visit and make them feel they were still vibrant members of the community. Councilman Knoller suggested that the Beautification Committee could work in conjunction with the Emerson Chamber of Commerce – they were always looking for new initiatives and things to support downtown to support their group and the Emerson businesses. Mayor DiPaola welcomed the idea and said she was looking for any collaboration from the Governing Body on how to enhance these committees and bring residents in to participate to make the Borough even better that it already was.

- Discussion of purchase of Borough cell phone(s) and/or tablets – Mr. Hoffmann noted that this item had been discussed as part of the budget process at the end of last year. He referenced an OPRA ruling from Glen Rock which indicated that personal cell phones and emails of elected officials were considered public documents. He said that Mayor DiPaola should have a Borough issued cell phone and that the purchase of tablets should be considered for members of the Governing Body. Mr. McCann concurred and recommended that public use and private use of electronic devices be separated to maintain the privacy of individuals. The Governing Body discussed the cost of cell phones and a State Contract from Verizon Wireless in the amount of \$39.95 per month per phone. Council members provided suggestions for alternatives which would be less costly. Mayor DiPaola asked that this discussion be continued at the February 5th meeting.
- Process for interviewing Borough Administrator candidates – Mayor DiPaola noted that Mr. Hoffmann's last day as Borough Administrator was January 25th and recommended that she and the Personnel Committee begin the interview process to select three strong candidates to bring before the entire Governing Body. Governing Body consensus was to move forward with this plan.

- Discussion of televising Council meetings – Mayor DiPaola said this had been a pet project of hers for the last nine years; her goal was for Borough government to be as open and transparent as possible. She wanted to get this done as quickly as possible and requested that the Technology Committee research the best and most efficient way to get this accomplished.

XIV. INTRODUCTION OF ORDINANCES

Mayor DiPaola announced that an ordinance would be discussed during Closed Session and would potentially be introduced after reconvening.

XV. ADOPTION OF ORDINANCES

Mayor DiPaola announced that no ordinances were being adopted.

XVI. REPORTS

- Mayor and Council

Councilman Bayley said he would be attending the upcoming Joint Insurance Fund Reorganization Meeting. He said Mr. Hoffmann had played a key role and leader in this group. He was well respected and would be missed. He had attended the Fire Department Reorganization dinner and thanked them for hosting Santa during the holiday events. He added that they had a good problem – they had seven new members and were running out of uniforms. This would have to be included as a budget item. He congratulated all the new officers of the Fire Department with special thanks to Fire Chief Tom Carlos for making the new recruits feel so welcome. He was looking forward to attending meetings of the Chamber of Commerce as their liaison and working with them as necessary. He had enjoyed his year as their first liaison to the Department of Public Works. He said that the department worked very hard to keep everyone safe and sometimes did things that did not get recognized so he wanted to thank them and Superintendent Perry Solimando for all their hard work. He looked forward to assisting Councilman Gordon as the first liaison to the group.

Councilman Hoffman said he would be attending a meeting of the Environmental Commission the following Wednesday and looked forward to working with them.

Councilwoman McGuire thanked the Governing Body for allowing her to join them. She looked forward to collaborating and said they were a good team who had the best interests of Emerson in their hearts.

Council President Falotico said it had been a privilege to attend the Fire Department Holiday Party – he had a great time and it was nice to see the event so well attended. Several members were recognized for their dedicated service to the Fire Department and Borough including Former Chief Bill Ramagli for 58 years of service and his uncle Dennis Falotico for 57 years of service. He thanked all the volunteers for answering the calls day and night to protect life and property of the Borough.

He looked forward to attending the upcoming Volunteer Ambulance Corps holiday party and gave the December 2018 and 2018 annual reports for the Ambulance Corps and noted that they were preparing to relocate from their current building. A recent inspection by the First Aid Council had concluded and they had passed with flying colors. The Corps was always in need of for new volunteers and thanked the members of the Corps for answering calls day and night. He had attended a meeting of the Library Board of Trustees meeting on January 10th where new officers were selected. Circulation was down at the Emerson Public Library and the BCCLS fixed charge for delivery of materials to all libraries would lead to higher costs for them and hoped this would be worked out more effectively. The library was in the process of purchasing new furniture and reallocating space. He outlined their movie schedule and children's activities for the upcoming months and said all activities were posted on their website.

Councilman Knoller had attended the Reorganization meeting of the Board of Health on January 10th where they had elected Nicole Argenzia as President. The topic of hookah lounges had been discussed and the members had asked if this could be banned by ordinance. He said it was nice to see new members as well as reappointed members there. The Westwood Board of Health would be holding a rabies clinic on January 26th at the Westwood Train Station. On financial topics, he noted that CFO Lauren Roehrer would be closing the books for 2018 and the Finance Committee would be holding their first meeting to discuss the 2019 budget shortly.

Councilman Gordon had attended the first meeting of the Historic Preservation Committee. They were updating their historic survey for 2019; it had been last updated in 1983. They were looking for a location to display their goods and wares in the Borough. They had received a contract proposal from Arcadia Publishing Company. A member had requested that the committee be changed into a commission.

- Borough Administrator Robert Hoffmann reported on the following:
 - He congratulated Patrol Officer Justin Schwarz on his swearing in and wished him a long and successful career with the Emerson Police Department.
 - PSE&G had hired Suburban Consulting and notified the Borough that they would be improving gas mains on 66 roads, some of which had been paved recently. He requested that DPW Superintendent Perry Solimando and Borough Engineer David Atkinson review the plan and discuss with PSE&G.
 - At the end of December, he and Mayor DiPaola had a conversation with Assemblywoman Holly Schepisi and Lynn Bartley of the Bergen County Housing Corporation. A block grant in the amount of \$450,000 for the DeBaun farm house was being returned due to structural issues and a decision had to be made as to what to do with the house. He proposed repurposing the grant funding to complete drainage repairs at Continental Woods.
 - A total of 200 35-gallon totes had been delivered and he requested that Mr. Solimando make a recommendation on how to distribute them.
 - He had met with the Borough Auditor to review the Borough's 2018 year end financials. The Borough was on target for most revenue projections.
 - He wished a happy birthday to Chief Michael Mazzeo, DPW Superintendent Perry Solimando and Tax Assessor Claire Psota.
 - He concluded by stating that this was his last meeting as the Borough Administrator and it had been a privilege to work with the current Governing Body as well as the Governing Bodies of 2015, 2016, 2017 and 2018. They had been successful on many fronts and he credited that to teamwork. He thanked the entire staff and all volunteers for all their good work and wished everyone a happy and successful 2019.

Mayor DiPaola thanked Mr. Hoffmann for his service to the Borough and wished him good luck in the future.

- Borough Clerk Jane Dietsche said that it had been an honor and privilege to work with Mr. Hoffmann and wished him good luck in his new position in Chatham Township.
- Borough Attorney John McCann had no report and thanked Mayor DiPaola for appointing him. He appreciated the trust placed in him and added that it did not go unnoticed that his appointment had been bipartisan and unanimous; this was a special privilege. He thanked the Governing Body for the confidence they placed in him and assured residents that he understood the importance of their community. His decisions would be made based on laws and facts and would be in the best interests of the Borough. He thanked Mr. Hoffmann for his service and said he was a true professional.
- Mayor DiPaola welcomed Councilwoman McGuire to the dais and thanked Mr. Pierro and Mr. Timmerman for participating in the process. She thanked her colleagues on the Council and said she looked forward to working as a group in the best interests of the Borough going forward.

XVII. PUBLIC COMMENT

☞ **Motion** to open the meeting to comments from the public was **moved** by Council President Falotico, **seconded** by Councilman Knoller and carried at 9:20 p.m.

Gary Schwinder, 99 Linden Avenue congratulated Councilwoman McGuire and Mr. McCann on their appointments and looked forward to doing great things. He wished Mr. Hoffmann good luck in the future. He inquired about a Land Use Board application which was currently being handled by former Land Use Board Engineer Gary Ascolese.

After discussion, Governing Body consensus was for Mr. Ascolese to continue his work reviewing the application on 76 Palisade Avenue.

☞ **Motion** to amend Resolution No. 54-19 to indicate that in addition to the three projects to be worked on by Boswell Engineering, to add the Land Use Board application for 76 Palisade Avenue was **moved** by Council President Falotico, **seconded** by Councilman Knoller and carried by a roll call vote of 6-0:

YES: Bayley, Hoffman, McGuire, Falotico, Knoller, Gordon

Mr. Schwinder also asked about providing Borough-issued cell phones to members of the Land Use Board to protect their privacy. Governing Body consensus was to add this topic to the next agenda for further consideration.

Dan O'Brien, 38 Palisade Avenue congratulated the new Councilmembers and wished them a prosperous 2019. He wished Mr. Hoffmann the best of luck in his new endeavor. He suggested posting Council meetings on YouTube and allow business advertising to cover costs. He asked whether PSE&G would be required to repave the whole road after excavation. He inquired about the Borough's process in selling property and compared the sale price per square foot for the Ambulance Corps property to figures for other properties on Block 419.

☞ **Motion** to close the meeting to comments from the public was **moved** by Council President Falotico, **seconded** by Councilman Gordon and carried.

XVIII. RESOLUTIONS ON CONSENT AGENDA NO. 67-19

☞ **Motion** to approve Consent Agenda Resolution No. 67-19 was **moved** by Councilman Hoffman, **seconded** by Councilman Knoller and carried by a roll call vote of 5-0 with one abstention:

YES: Bayley, Hoffman, Falotico, Knoller, Gordon

ABSTAIN: McGuire

- CA 68-19 Renew Elevator Contract for one-year period from January 1, 2019 through December 31, 2019
- CA 69-19 Authorize Renewal of Bergen Municipal Employee Benefits Fund Indemnity and Trust Agreement
- CA 70-19 Authorize rebidding of Cleaning Contract
- CA 71-19 Authorize RFQ for Records Management
- CA 72-19 Authorize renewal of Pistol Range Agreement with the Borough of Park Ridge

XIX. CLOSED EXECUTIVE SESSION - Resolution No. 73-19

☞ **Motion** to go into an executive session to discuss matters exempt from the public as duly noticed by Resolution No. 73-19 was **moved** by Council President Falotico, **seconded** by Councilman Knoller and carried by a roll call vote of 6-0:

YES: Bayley, Hoffman, McGuire, Falotico, Knoller, Gordon

- #19-1/15-01 Potential Litigation – Related to Zoning Ordinances N.J.S.A. 10:4-7
- #19-1/15-02 Contract Negotiations – Professional Services N.J.S.A. 10:4-7
- #19-1/15-03 Personnel – Borough Administrator N.J.S.A. 10:4-8

XX. RECONVENE

The Borough of Emerson reserves the right to return to Open Session and, if appropriate, take formal action.

☞ **Motion** to reconvene was **moved** by Councilman Knoller, **seconded** by Council President Falotico and carried unanimously.

- INTRODUCTION OF ORDINANCES:

Mayor DiPaola announced that Ms. Dietsche would read the following ordinance by title and it would be further considered at a Public Hearing to be held on February 5, 2019 at 7:30 p.m. in the Council Chambers of the Borough Hall, Municipal Place, Emerson, N.J. and published in the January 18, 2019 edition of the Ridgewood News. She added that this ordinance was on file in the Clerk's Office and posted on the official bulletin board of the Municipal Building where copies would be available to the General Public at no charge.

1580-19 AMENDING CHAPTER 290, ZONING, OF THE CODE OF THE BOROUGH OF EMERSON, IN ORDER TO REVISE THE RC (RETAIL COMMERCIAL) ZONE TO ADD DRIVE-THRU ESTABLISHMENTS AS CONDITIONAL USES”

Mr. McCann provided clarification on Ordinance 1580-19, noting that it was in direct response to a letter from Beattie Padovano dated December 10, 2018 in which stated they advised that a complaint had been filed in Superior Court in New Jersey. It alleged that the original ordinance was in violation. He concurred that when the ordinance was passed originally it was flawed in two ways: it was not noticed to nearby towns and did not notice property owners within 200 feet. In order to obviate any other litigation and put that litigation to rest, he recommended amending and fixing it for any existing establishments today would not be adversely impacted by the Borough’s error. He announced that the public should be aware that the life of this ordinance as currently introduced and hopefully passed was going to be short lived in the form that it passed. The intent of the Borough was that if it passed, to neither narrow the scope or repealed it in its entirety. He said he would not encourage anyone to rely on this ordinance in its final form as it as going to be presented that evening. To rely on it would be to the detriment of anyone filing for an application.

☞ **Motion** to introduce Ordinance No. 1580-19 on first reading was **moved** by Council President Falotico, **seconded** by Councilman Knoller and carried by a roll call vote of 6-0:
RC: Council members:
YES: Bayley, Hoffman, McGuire, Falotico, Knoller, Gordon

XXI. ADJOURNMENT

With no other business to address, at the request of Mayor DiPaola, a motion to adjourn was **moved** by Councilman Hoffman, **seconded** by Council President Falotico and carried at 10:43 p.m.

Respectfully submitted,

Jane Dietsche, RMC
Borough Clerk