



**MINUTES
BOROUGH OF EMERSON
MAYOR AND COUNCIL**

February 21, 2012

7:30 P.M.

**Borough Hall-Council Chambers
Emerson, NJ 07630**



Mayor Colina called the meeting to order at 7:35 p.m., and identified the emergency exits. Mr. William Panza led the assembled in the salute to the flag. Mayor Colina asked everyone to remain standing for a moment of silence for the Marine Lance Cpl. Osbrany Montes de Oca who was killed on February 10th in Afghanistan. He said it was a great loss for his family, North Arlington, New Jersey and all of America.

O.P.M.A. Statement

Mayor Colina read the Sunshine Statement announcing that the meeting of February 21, 2012 had been adequately noticed and was in compliance with the provisions of the Open Public Meetings Law. Further, that the meeting was included in the Annual Meeting Notice Resolution transmitted to the Bergen Record and Ridgewood News on December 21, 2011; posted on the bulletin board in the Borough Hall, Municipal Place, Emerson, NJ 07630 and has remained continuously posted as the required notices under the Statute. In addition, a copy of the notice was on file in the Office of the Municipal Clerk and had been available to the public since its approval by the Governing Body.

ROLL CALL:

PRESENT:

Mayor Colina, Councilwoman DiPaola, Councilwoman Garis, Councilman Knoller, Councilman Rivers, Council President Shaw, Councilman Worthington

Also present were Borough Clerk Carol Dray, Borough Attorney Scott Mooney, Borough Administrator Joseph Scarpa and CFO Catherine Henderson.

Mayor Colina led the group in singing Happy Birthday in honor of Dr. Nisonoff's birthday, which was appreciative.

III. NEW BUSINESS

- Joint Budget Meeting pursuant to LFN 2011-18R -Best Practice Inventory – Municipal/School Relations – Asst. Superintendent Dr. Phil Nisonoff and Board of Education President John DiNiro – The Mayor explained that the intent of their preliminary discussions were to discuss ways to proceed as stronger teammates in some of their expenditures, sharing services and other synergies. Mr. Scarpa and Ms. Henderson explained the Best Practices Checklist and how it applied to the Borough and Board of Education. The Mayor said there had been meetings at the Borough Hall to discuss apply for grant money for Office of Emergency Management purposes - hoping to team up on the purpose of a generator in case of emergency and having emergency shelters. Mr. DiNiro explained that the budget was not yet prepared but had a tentative hearing date of March 19th. Dr. Nisonoff presented ways they already shared services and said they had a great working relationship with the Borough. Mr. Scarpa agreed they had a great working relationship over the years and would continue to do so. Mayor Colina said they had really good conversations and they would continue to do that.

Ms. Henderson reviewed the OEM grant meeting that had taken place that afternoon. The original primary focus was on the cost of generators for a 50/50 match grant for OEM for a maximum of \$50,000. However the total cost was estimated at about \$200,000 to get the size unit to work for any of schools as well as the Senior Center. They want to get a portable generator that was big enough to be moved around and cover everything. If they did not get \$50,000, they would each need to put up \$100,000 in capital monies to cover the grant. Another option was to apply for communication equipment. The concept plan was due by March 2nd. Mr. DiNiro said they would take a look at it but on the surface it looked like an awful lot of money. Ms. Henderson said the \$200,000 figure represented the cost to equip one shelter, and included rewiring the building, as well as permit and engineering fees. She said if they could get one shelter up and running it would create a positive step for OEM shelter.

IV. PROCLAMATIONS & CITATIONS

- Read Across America Day – March 2nd
Mayor Colina read the proclamation declaring March 2nd Read Across America Day in the Borough of Emerson.

V. APPOINTMENTS

- Chairman of Environmental Commission for term ending 12/31/12 by Mayor Colina – Mayor Colina appointed Thomas Browne as Chairman of the Environmental Commission for the term ending December 31, 2012. He thanked Mr. Browne for his volunteerism and leadership.

VI. CORRESPONDENCE

Mayor Colina stated that copies of the correspondence were available in the office of the Borough Clerk.

- Letter dated January 4, 2012 from Joseph Picciano, Deputy Director, Office of Homeland Security & Preparedness; Re: Grant Project Activity
- Letter dated January 9, 2012 from Daniel O'Brien; Re: Kudos for DPW Superintendent Joe Solimando
- Letter dated January 13, 2012 from Sr. Vice President, Cable Operations Layth Taki, Cablevision; Re: Cable Franchise Fee payment in the amount of \$61,267.00
- Letter dated January 19, 2012 from Juliana Zatarain, Girl Scout Troop 342; Re: Silver Award Project request
- Letter dated January 23, 2012 from Marc Schrieke, Chair, Flood Advisory Committee, BC Board of Chosen Freeholders; Re: Flood Advisory Council - Second Notice
- Letter dated January 26, 2012 from Freeholder Robert Hermansen; Re: Freeholder Board Presentation Wednesday February 8th on amending the Open Space Trust Fund
- Letter dated January 27, 2012 from Assemblyman Robert Schroeder, Legislative District 39; Re: Newsletter
- Letter dated January 27, 2012 from Lisa Simms, Director, NJ Tree Foundation; Re: Donation for planting, maintenance and educational aspects of trees from PSE&G
- Letter dated February 8, 2012 from Suzanne & Yury Esterlis; Re: Speed Limit Sign – Ackerman Avenue
- Letter dated February 13, 2012 from Interim Library Director Phyllis Palley; Re: Positive experience as interim director

VII. UNFINISHED BUSINESS

- 2012 Municipal Budget Workshop:

- a) Library Board of Trustees- Introduction of Library Director Camille Steinfeld; Presentation of Budget by Library Director Camille Steinfeld and former Interim Library Director Phyllis Palley

Former Interim Library Director Phyllis Palley, Library Board of Trustee Chairman William Panza and new Library Director Camille Steinfeld presented their 2012 budget. Mr. Panza reviewed the accomplishments they had made since Ms. Palley had come on board, including computerizing billing and payroll systems. She had also been a great advocate for the public. He said Ms. Steinfeld had been a very impressive candidate and had great ideas. Ms. Steinfeld and Ms. Palley presented the Emerson Public Library's 2012 budget, requesting an additional \$20,000 to budget for books and summer reading programs for children. Computer requirements and the HVAC system were also discussed.

The Governing Body noted that the Library Board of Trustees had done a great job. Mayor Colina said he looked at this as a success story - they teamed up and did things the right way. He proposed this example of teamwork as a template the Governing Body could use with all organizations in the Borough.

- b) Historic Preservation Commission – Vice Chair Ken Hoffman and Chairman Billie Wassmann presented their budget for 2012. They said their budget request was significantly higher than last year due to a change in their mission as a result of the Council's desire to preserve structures. Mr. Hoffman's proposals included two exhibit cases they would like to install, a website, proposed talks by paid and unpaid speakers, historic landmark signs and a paid secretary. They were hopeful they would be able to find space for at least one case at the library and were hoping to be allocated a budget of about \$2,000.

- Emerson Volunteer Ambulance Corps – Mayor Colina summarized what had transpired at the last meeting where several members of the EVAC had spoken during public comment and discussed their request to replace the liaison assigned to them and where Councilwoman DiPaola had asked to rebut. He said of the EVAC that if they had anything else to add other than comments made at the last meeting, they would be interested to hear it and invited Councilwoman DiPaola to comment as well.

Councilwoman DiPaola said she did not prepare a rebuttal but continued by remarking that, in her opinion, the allegations the EVAC were making against her to result in the removal of her as their liaison were fictitious and clearly a means of distraction because she had made a request to look at the EVAC's financials. In reviewing those items, information was discovered that they were paying members from the donated funds in a range of up to \$1,700. She considered that the reason for their request for her removal was because they were angry with her for seeking that information. She reiterated her comments from the last meeting that she welcomed a committee to be formed and welcomed help. She thought the relationship could be repaired and her work with them could continue and fences could be mended.

Mr. Mooney cautioned the EVAC that the Borough had received a letter of legal representation that day and advised Mr. Howlin and the other EVAC members present that the by virtue of that letter they did have the privilege to have an attorney speak on their behalf. If they came up to speak, they were waiving that privilege. Mr. Howlin said their attorney was not available that evening to attend the meeting and continued speaking.

Mr. Howlin recalled that at the two checkbook review meetings that had taken place his understanding was that the information was to be held private but he did not believe the matter was closed. He also said the issue was not that they were approached, but rather the manner by which they were approached as a demand with no forewarning.

Councilwoman DiPaola denied that she had made pact to keep anything confidential. She maintained that any and all information regarding donated money and EVAC financials was more than open to the public and the public had every right to know how the donated monies were being spent since they worked under the indicia of Emerson's Borough government. She added that she supported the EVAC and the purpose they served.

Mayor Colina stated that the Governing Body meeting was not a court of law; rather, this discussion was an attempt to try to draw to a close the business of the last meeting adding that the situation need not have come to the point that it had. He was disappointed that the massive breakdown in communication resulted in the EVAC spending money on engaging in an attorney and referenced the recent negative publicity which he was sure alarmed residents and the community. He established that the Council would discuss the matter in whole and take action that evening.

Councilman Rivers interjected that he surmised that Mayor Colina was not disappointed with EVAC but that the Mayor's disappointment was driven by the endless deliberation and opined that the EVAC had probably done the right thing engaging an attorney. Mayor Colina said he was disappointed in general and because this kind of issue unfortunately, was only benefitting the Borough Attorney who needed to be engaged. He said they were spending money and had talked about being fiscally responsible and doing what was best for Emerson but the results did not reflect that. He wanted to let everyone know that the matter had been discussed and unless there was any new information brought forth, he was resolved to find an end to it now and take appropriate action.

Councilwoman DiPaola asked under what guise the EVAC hired an attorney and why they felt they needed an attorney since the Governing Body had not taken any action against them. She considered it frivolous spending money on an attorney; further demonstrating that the EVAC had even more money to spend.

Council President Shaw said confidentiality was agreed upon at the first meeting but not agreed upon by Councilwoman DiPaola in the second review and she was free not to agree. He said based on the tenor, discussions and the topics, it was probably in the EVAC's best interests to seek counsel for clarification and representation based on discussions and he did not consider it a frivolous expenditure.

Councilwoman DiPaola said she asked to look at the checkbook a second time and was denied. She asked the EVAC to produce receipts and was denied. She asked them to produce 1099's and was denied. She thought it was curious why they would retain an attorney when, as the liaison to their department, she was trying to make sure things were running appropriately. She had no adverse reaction to anyone receiving a stipend as long as it was done in an appropriate fashion and was voted upon and was pursuant to all laws. Mayor Colina asked if she was okay with the stipends that had been awarded. She thought the stipends in her opinion were questionable at that moment. She understood that stipends were given to other volunteers in the Borough and encouraged the Governing Body to give the stipends to the EVAC in the same fashion they were given to other volunteers in order to show them their appreciation.

Mayor Colina said the certified letter he had received on January 11th had been shared with the Governing Body and he had proactively tried to seek a solution including the provision of additional support to the liaison at that time. The feedback he received from Councilwoman DiPaola was that his recommendation did not match her expectations with respect to the notion of providing a second liaison as a means of compromise and the remedy did not sit well with Councilwoman DiPaola. Councilwoman DiPaola said she did not think she said no to a second liaison. Mayor Colina responded that she was clearly quite upset with the contents of his email. He added that he wanted to be a good teammate to her and did not want to get into the nitty gritty but the suggestion was made to provide her with additional support but in his opinion it was not embraced the way he expected. He said they had spent more money on their Borough professionals and enlisted insight and expertise from the Borough Auditor about whether 1099's were appropriate for individuals. He emphasized that this was pretty simple communication they could have with all their teammates but he did not think they represented the IRS.

Councilwoman DiPaola asked why she did not get an answer if it was such a simple communication when she asked and emailed in August about whether anyone on the EVAC received a stipend, a gift, a present, or anything in that genre. Months went by and she did not get an answer until she sat down with the Borough Administrator and the Borough Attorney. As the EVAC's liaison, she wondered what they needed to hide and why they could not come clean if what they were doing was appropriate. She maintained that instead the EVAC had clammed up and that to her signaled a red flag.

Mayor Colina asked if she was able to substantiate the red flag and any suspicions she might have had in subsequent investigation. She answered that the red flag was substantiated when the checkbook was disclosed adding that she did not know if the payments were for stipends or clothing allowances. Mayor Colina asked if she was still uncomfortable in terms of the awards. Councilwoman DiPaola replied affirmatively. She had talked to the Borough Auditor, the Council President and the Borough Attorney, utilizing the professional resources to try to uncover information to substantiate her suspicions. She confirmed that she had also utilized outside sources, including the IRS and other attorneys. Mayor Colina referenced her earlier remark and was puzzled that Councilwoman DiPaola considered it a frivolous action by the EVAC to engage an attorney; yet she had sought advice from an attorney absent of the rest of the Council.

Councilwoman Garis asked Councilwoman DiPaola the amount of the maximum stipend she was aware of. Councilwoman DiPaola said she did not know; she had asked at their second meeting to look at the checkbook and was denied because she could not recall the exact amount. She had heard numbers of about \$1,725 or \$1,750, perhaps \$1,700. Councilwoman Garis said that if \$1,750 was the maximum stipend per year and the maximum amount of calls they went on was 140.; dividing those numbers, according to her calculations that amounted to \$12.50 per call. She did not understand that for each attempt at saving a life if that was what this whole situation was about, she had a problem with. She asked for clarification. Councilwoman DiPaola said if they really wanted to examine the numbers, they should look at three years of tax returns next and add up the money the EVAC had paid out to members because it wasn't \$12.50; it turned into over \$40,000 over three years.

Mayor Colina said he was not trying to defend the EVAC and was not trying to defend Councilwoman DiPaola. He was trying to advance the matter to some sort of agreeable conclusion. Councilwoman DiPaola reported that in 2008, for uniforms and clothing the total was \$13,800. For 2009, the total was \$17,125 and for 2010 the total was \$16,175. She thought those totals went beyond reasonable. She said that she had an expert

present, Mr. John McCann, who had dealt with this situation in Cresskill, NJ and had information regarding a similar situation in Fairview. Mayor Colina asked if Mr. McCann was representing her. Councilwoman DiPaola said he was advising her as a friend and had given her very interesting factual information about 501c (3) charitable organizations and what they were and not allowed to do.

Council President Shaw said if Mr. McCann had an opinion as to some of the concerns of Councilwoman DiPaola, the EVAC would not have an opportunity to respond to it and without their ability to rebut that, they would be placed in a place of significant prejudice. Mr. McCann said he was there because a colleague of theirs had approached him and asked questions since he had gone through a similar situation recently in Cresskill. He strongly recommended they speak with a representative from the Joint Insurance Fund who handled the Cresskill matter as there were issues with regards to certain issues in EVAC attorney Ms. Calogero's letter that were in conflict with the legal opinions in the Cresskill matter.

Council President Shaw said there had been meetings and discussions and the Borough Attorney had looked into the issue. The Borough Auditor had been included in multiple discussions. He said the Councilwoman's position had been vetted through the entire Governing Body and she had not been foreclosed from offering her opinion or from following any sort of procedure. There had been a fact finding review and none of the parties had been shortchanged. He said they would speak to the JIF attorney.

Mayor Colina asked for a motion to enforce the ordinance that had been on the books since December 16, 2003 to appoint an Ambulance Committee consisting Councilwoman Garis, as Council liaison of the committee, Councilman Worthington, as the Assistant Council liaison and himself as the Mayor to be the entire Ambulance Committee. He said they would take Mr. McCann's suggestions into consideration and seek to reestablish good teamwork among the Governing Body as a whole.

☞ **Motion** to appoint an Ambulance Committee pursuant to the Code of Emerson with Councilwoman Garis as the liaison, Councilman Worthington as the second and the Mayor as the committee members was **moved** by Councilman Rivers, **seconded** by Council President Shaw and carried by roll call vote.

RC: Council members:

YES: Garis, Worthington, Rivers, Shaw

NO: DiPaola

ABSTAIN: Knoller

Mayor Colina said he appreciated everyone's input and asked for Councilwoman DiPaola's continued input to the committee. He addressed the EVAC by saying the Council understood Councilwoman DiPaola's concerns very clearly and suggested the Ambulance Committee continue to examine the information and work in as a positive manner as possible.

VIII. FINANCIAL MATTERS

- Resolution #65-12 Approve Increase in Temporary Appropriations
☞ **Motion** to approve Resolution #65-12 Approve Increase in Temporary Appropriations was **moved** by Councilman Worthington, **seconded** by Councilman Rivers and carried by roll call vote.
RC: Council members:
YES: Garis, Worthington, Rivers, Shaw, Knoller, DiPaola

- Resolution #66-12 Approve Temporary Capital Budget
☞ **Motion** to approve Resolution #66-12 Approve Temporary Capital Budget was **moved** by Councilman Worthington, **seconded** by Councilman Rivers and carried by roll call vote.
RC: Council members:
YES: Garis, Worthington, Rivers, Shaw, Knoller, DiPaola

IX. NEW BUSINESS

- Emerson Volunteer Ambulance Corps - Removed

X. INTRODUCTION OF ORDINANCES

Mayor Colina announced that Ms. Dray would read the following bond ordinance by title and it would be further considered at a Public Hearing to be held on March 6th, 2012 at 7:30 p.m. in the Council Chambers of the Borough Hall, Municipal Place, Emerson, N.J. and published in the February 24th, 2012 edition of the Ridgewood News by summary. He added that the 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.

First Reading:

1441-12 BOND ORDINANCE TO AUTHORIZE THE MAKING OF VARIOUS PUBLIC IMPROVEMENTS IN, BY AND FOR THE BOROUGH OF EMERSON, IN THE COUNTY OF BERGEN, STATE OF NEW JERSEY, TO APPROPRIATE THE SUM OF \$475,000 TO PAY THE COST THEREOF, TO MAKE A DOWN PAYMENT, 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.

☞ **Motion** to approve Ordinance 1441-12 on first reading was **moved** by Councilman Worthington, **seconded** Councilman Rivers and by and carried by roll call vote:
RC: Council members:
YES: Garis, Worthington, Rivers, Shaw, Knoller, DiPaola

Second Reading and Public Hearing:

1440-12 AN ORDINANCE TO AMEND THE CODE OF EMERSON, CHAPTER 106 THEREOF, ENTITLED ALCOHOLIC BEVERAGES, TO CHANGE THE AMOUNT FOR ANNUAL PLENARY RETAIL DISTRIBUTION LICENSE FEES

☞ **Motion** to open the meeting to comments from the public on Ordinance #1440-12 was **moved** by Councilwoman DiPaola, **seconded** by Councilman Rivers and carried.

Seeing no hands, Mayor Colina asked for a motion to close the meeting to comments from the public on this ordinance only.

☞ **Motion** to close the meeting to comments from the public on Ordinance #1440-12 was **moved** by Councilman Rivers, **seconded** by Council President Shaw and carried.

☞ **Motion** to adopt Ordinance #1440-12 on second reading was **moved** by Councilman Worthington, seconded by Councilman Rivers and carried by roll call vote: **Council members:**

YES: Garis, Worthington, Rivers, Shaw, Knoller, DiPaola

XI. REPORTS

- Borough Administrator – Mr. Scarpa said that a former Emerson police officer had sued the Borough over the promotional process. The Borough's position was upheld and the Borough won the case.
- Borough Attorney Scott Mooney had no report.
- Borough Clerk Carol Dray said she was going to be giving Mr. Mooney a couple ordinances to review that were antiquated.
- Mayor and Council

Councilwoman DiPaola, Councilman Knoller, Councilwoman Garis and Council President Shaw had no reports.

Councilman Worthington reported on the recent **Shade Tree Commission** meeting where website content and individual membership was discussed. He said he had spoken with Deputy Clerk Jane Dietsche who explained that commissions could update website information by submitting it to her. He discussed conducting in-house training so individual commissions could update their own sites. He said this was an item for the Technology Committee to work on in the future.

He also stated that a sign was posted for Jim Wagner at the train station. Shade Tree Commission Chairman Joe Solimando explained that Mr. Wagner had been an original member of the **Environmental Commission**. Originally the Shade Tree Commission had been under this group, but as it grew, it became a separate entity. Mr. Wagner was the original chairman and held that position until he died. Mr. Solimando said Mr. Wagner's daughter had asked that in lieu of flowers when he died, the money be donated to the Shade Tree Commission. The commission thought it would be appropriate to designate the property by the train station as Jim Wagner Park and spend money on plantings, a stone wall and park maintenance. Mayor Colina said Mr. Wagner had been a retired Marine and had shared his experiences in the Pacific. He thanked everyone for their efforts on his behalf.

Councilman Rivers gave the January **Police Department** report. He said work on Hillman Field had begun the previous week and Aqua Turf seemed to be a top notch organization. They were waiting to hear from the engineer if everything had been done satisfactorily. Aqua Turf would be coming back to do the top dressing, top soil and place the Pro's Choice material. He said the field was now softer and more pliable which was exactly what they were looking for. The last thing he wanted the committee to do was to provide back information to the **Recreation Commission** on how to maintain the field going forward. Representatives from Aqua Turf said there were things that needed to be an ongoing process, involving hardware, chemicals, and seeding.

Mayor Colina said that he committed to everyone that the team thing had been his mantra all year long and he sought that same commitment from everyone.

XII. PUBLIC COMMENT

Members of the public are welcome to speak on any topic by coming to the table and stating your name and address for the record. In the interest of time, speakers are limited to five (5) minutes. In consideration of all who may wish to speak, please keep your comments brief and concise.

☞ **Motion** to open the meeting for comments from the public was **moved** by Councilwoman DiPaola, **seconded** by Councilman Worthington and carried.

Mr. Mike Budres, 93 Pascack Avenue thanked Councilwoman Garis for her comments. He also said Mr. Jim Wagner was a great gentleman.

Mr. Ken Hoffman, 61 Emwood Drive said he had the good fortune to work with Mr. Wagner for a number of years on the Environmental and Shade Tree Commissions and said he was extremely devoted and you could not find a more genuine person. He said Mr. Wagner was still a guiding spirit to the Shade Tree Commission and did a great job for Emerson.

Mayor Colina said he, Council President Shaw and Councilman Rivers attended the Memorial Day ceremony last year and he had noticed over the last years that the service had grown every year. He said they hopefully started a tradition where they went to the plaque at the monument and said one of the names aloud. It brought him great pride to hear Mr. Wagner's name brought up and thanked everyone for their great comments.

Seeing no more hands, Mayor Colina asked for a motion to close the meeting to comments from the public.

☞ **Motion** to close the meeting for comments from the public was **moved** by Councilman Rivers, **seconded** by Councilwoman DiPaola and carried.

XIII. RESOLUTIONS ON CONSENT AGENDA NO. 67-12

Matters listed below are considered routine and will be enacted by one motion to the Council and one roll call vote. There will be no separate discussion of these items unless a Council member requests an item be removed for consideration.

☞ **Motion** to approve Consent Agenda Resolution #67-12 was **moved** by Council President Shaw, **seconded** by Councilman Rivers and carried by roll call vote.

RC: Council members:

YES: Garis, Worthington, Rivers, Shaw, Knoller, DiPaola

Ca 68-12 Approve Bill List

XII. ADJOURNMENT

With no other business to address, at the request of Mayor Colina, a motion to adjourn was **moved** by Councilman Rivers, **seconded** by Councilman Worthington and carried at 9:20 p.m.

Carol Dray, RMC/CMC/CMR
(Proofed 05/14/12)

February 24, 2012