



**BOROUGH OF EMERSON  
MAYOR AND COUNCIL**

**SPECIAL MEETING  
Closed (Executive) Session**

Thursday, June 30, 2011  
4:00 p.m.

Council Chambers-Borough Hall  
Municipal Pl.

**EMERSON, NEW JERSEY 07630**



Mayor Colina called the meeting to order at 4:06 p.m. He led the assembled in the salute to the flag and asked the assembled to remain standing for a moment of good thought, meditation for all volunteers that serve our communities across the nation and especially in Emerson.

**1. O.P.M.A. Statement**

Mayor Colina read the Sunshine Statement announcing that the Special Meeting of June 30<sup>th</sup>, 2011 had been duly noticed and was in compliance to the provisions of the Open Public Meetings Law, transmitted to The Record and Ridgewood News, the official newspapers of the Borough of Emerson, 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. A copy of this notice is on file in the office of the Municipal Clerk and has been available to the public.

**2. ROLL CALL OF THE MAYOR AND COUNCIL**

**PRESENT:**

Mayor Colina, Councilwoman DiPaola, Councilwoman Garis, Councilman Lazar

**ABSENT:**

Councilman Browne, Councilman Rivers, Council President Shaw

Also present were Borough Clerk Carol Dray, Borough Attorney Scott Mooney, Borough Labor Council Ron Gordon and Borough Administrator Joseph Scarpa.

Mayor Colina announced that he had received correspondence from an attorney with an advisement that some of the Library Board members who had previously responded to a 'Rice Notice' had changed their minds and their preference now was to have the discussion Open Session rather than closed executive session. He advised the Library Board of Trustees in attendance that each individual had the right to decide whether they wanted to proceed in an open or closed session. Library Board Trustees Carol Schnapp, Francesca Ianora, Ida Ennis, Carol Costantin and Gloria Wilson each agreed to have the discussion during the public portion of the meeting and their change of preference was honored.

Mayor Colina maintained that he remained committed to be a proponent and advocate for the Library. He appreciated all the effort the Library Board of Trustees had brought forth not only on the renovation project, but throughout the years on behalf of the Borough of Emerson. He emphasized that this afternoon's session was in no way an inquisition; instead an opportunity for the Council to proceed in a civic manner to gain information they had been requesting over a period of time for the purpose of fact finding. He noted that the Trustees and the Library Director had been invited without a Rice Notice last week and based on the lack of participation; the Rice Notice

became a tool of necessity. He thanked the Trustees present for coming and let them know that the Governing Body's intention was to resolve the issues that were still outstanding. It was not his expectation the answers be received to their questions that evening since some of the leadership chose not to attend, but the Governing Body felt it was important to pursue questions and concerns that they had about the renovation project, library personnel, Trustees and the decision making process, etc. In an effort to streamline it and make it as comfortable to everyone as possible, he invited the five Trustees present to the front table before the dais.

Mayor Colina requested a motion to suspend the rules because this matter had to be added relating to the priority of business at hand, adding an item under new business – Emerson Public Library.

### 3. NEW BUSINESS

☞ **Motion** to add Emerson Public Library to New Business on the agenda was **moved** by Councilwoman DiPaola, **seconded** by Councilwoman Garis and carried.

He asked the panel to identify themselves. The panelists included Rebecka Whitmarsh, from the firm of Wilentz, Goldman and Spitzer, for the Library Board, Mayor Colina's Representative to the Library Board Ida Ennis, Vice President Gloria Wilson, Trustee Francesca Ianora, Secretary Carole Schnapp, and Trustee Carol Costantin. Borough Labor Counsel Ron Gordon asked Ms. Whitmarsh to confirm that she represented the Library Board, not any of the women individually. She stated that he was correct.

Mayor Colina indicated that he would be the main conduit of the questions and had prepared a list of questions he had planned to ask the Director directly if she had been there. But he said he believed that she had a doctor's appointment. He wanted it understood that questions to Trustees were from him and began by asking each Trustee if they had a copy of the signed copy of the renovation project agreement. Not one of the Trustees indicated that they did. He asked if any were aware if there was a signed agreement in place. Ms. Ianora said that she believed there was one with the architect. He asked if as Trustees they were aware of the Library Director's employment agreement. One Trustee, Ms. Wilson, replied to his question in the affirmative. However, Ms. Whitmarsh interrupted by questioning the purpose of the question. Mayor Colina replied that it was to gain an understanding of the Director's employment arrangement. Ms. Whitmarsh maintained that the Director had an a signed contract with the Library. Mayor Colina asked for a copy of it. Ms. Whitmarsh said that they could present a written request for a copy. Mayor Colina said that they had already sent an email request to the Director and the Board President several weeks back. Mr. Gordon inquired whether there was a reason it had not been produced. Ms. Wilson explained that if a library was civil servant as in Teaneck, then a signed contract was necessary. But small libraries such as Emerson used just a vote of the Trustees to hire the Director. She added however, that they now had a signed contract. The Mayor asked if that inferred that there was not one recently. Ms. Whitmarsh emphasized that there was a signed contract now. Mayor Colina asked when it was signed. Ms. Whitmarsh replied that they would provide the contract to them. Ms. Costantin asked whether the town would have a filed signed copy of the contract. Mr. Mooney explained that they had been requesting it and it had not been turned over to the Governing Body. Mayor Colina continued that the employment agreement had been requested of the Board President and Director. He asked if it was signed recently. Ms. Whitmarsh stated that she did not understand the Council's point in asking these questions as the Library Board had the authority to hire library personnel, not the town. She could not understand the point of the question.

Mr. Gordon emphasized that this was the Governing Body of the municipality and the Mayor and Council had the power to investigate any activity of the municipality. If she was taking the position that the library was not an activity of the municipality, he wanted to know the source for that information because it did not exist. Ms. Whitmarsh agreed that the town did have a right to

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investigate. Mr. Gordon stated that they had asked if the Library Director had a contract and that question was answered. The next question was when the contract had become effective and that answer was not forthcoming. He noted that it raised red flags when they were not being open, honest and cooperative with the Mayor and Governing Body of the town of the library. Ms. Whitmarsh pronounced that the town people voted that there would be a library and they were the only people that could dissolve the library. If the town wanted to investigate the library, the town needed to give a reason why it was doing so.

Ms. Schnapp identified herself as the longest serving Board member and over that time had hired many directors as Ms. Wilson explained. They never had a formal contract so what they did with Ms. Fulgione was what they had always done. Mayor Colina said that he was not saying that there was a right or wrong answer; just a question that he was looking to be answered. He said that the term 'investigate' was counter to comments he made earlier; rather they were doing fact finding and if that equated to investigating, then it was a matter of semantics. He appreciated the legal counsel's presence both for the Board and the Governing Body because he wanted to learn what the law was and sift through the statutes and rules governing this.

He added that he noticed that certain flags were raised based on comments as to whether an employment agreement was recently signed and if so, he thought it was an easy question – when was it signed? He commented that he would have a hard time understanding why they couldn't get that answered with her presence there. Ms. Ianora said that as far as she knew, the Board did not have that knowledge about a recent signing of a contract. When the Mayor asked again if any of the Trustees present were aware of a signed contract, some replied that they were not and Ms. Wilson said that she would rather not answer because she would rather be with the Board. Ms. Ennis also chose not to answer.

Mr. Scarpa told the Board that they had every right to establish an employment agreement with the Director they hired because they had the authority to vote. He asked if when they made the decision to hire a person, whether they discussed the person's hours and salary. Ms. Wilson said yes. He asked if those items were discussed with regards to the present Directory. Ms. Wilson responded yes. He asked them to let the Council know the hours and salary. Ms. Wilson stated that they should understand that the Library Director's hours were not 9 - 5, especially under the circumstances of the renovation. She had to cover when one of her staff could not come in. Mr. Scarpa responded that Ms. Fulgione had been working with the town since 2005, long before the renovation. He asked for her hours and salary, exclusive of the renovation. Ms. Ianora volunteered that there was a personnel manual that listed the duties of each member of the library personnel and they could refer to that to get specific information which also applied to the Director.

Mr. Scarpa asked how the salary was determined – if it was determined for all the employees at the same time. Ms. Ianora said that it was. Mr. Scarpa asked for a copy of the manual and was told that he could have one. He also asked for a copy of the Director's employment agreement if one existed. Mr. Gordon asked Ms. Whitmarsh for a copy without a further written request. She agreed and said that they could have it in two weeks as she would need to get to her office and make copies to distribute. Councilwoman DiPaola stated that she was confused – wasn't it a public contract? Mr. Gordon said that a contract was subject to an OPRA request which would require it be sent out with seven business days to respond. He said that they were getting cooperation, and getting the documents they requested and did not think that two weeks was an unreasonable amount of time.

Mr. Mooney inquired who was in control of the documents. Ms. Whitmarsh said that she would be asking Ms. Wilson or Ms. Fulgione. Mr. Scarpa noted that they had both been asked prior to today. Ms. Whitmarsh maintained that it was her understanding that no formal OPRA request had been filed. Mr. Scarpa said there did not have to be an OPRA request. She respectfully disagreed and said that they could make a request to her office in writing and she would try to get the employment

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contract to them in two weeks. She explained that she and her partner were in trial and that it would take two weeks but if a formal OPRA request were filed, she said she would have seven days. Mr. Scarpa countered if there was an agreement already in place what then had to be reviewed? It was public information. She said that she would not sit there and be interrogated. Mr. Scarpa countered that it was public information and was not interrogating her. She said that they would get the documents in two weeks, and if that was not sufficient for them, then make the request in writing. Mr. Scarpa asked two weeks from when? He explained that the original request was last week. Ms. Whitmarsh said that they were going to be done there.

Councilwoman DiPaola inquired as to what public documents and public contracts required immediate access. She pointed out that if she went to Borough Hall and asked for access to documents that were immediate access, the Clerk's responsibility was to go immediately to the file and present a copy. Ms. Whitmarsh responded that Councilwoman DiPaola could go to the Library. Councilwoman DiPaola said that they had done that. Ms. Whitmarsh insisted that they could go tomorrow and receive a copy. Councilwoman DiPaola asked Ms. Whitmarsh to confirm that if they went to the Library tomorrow then they would be presented with the contract tomorrow. Ms. Whitmarsh said that it would, if they were entitled to immediate access. Mr. Scarpa argued that they had gone to the Director and the President of the Board of Trustees already for the contract. Ms. Whitmarsh explained this was her first day and she was informing them as to what she had access to and what she could do for them. They could accept it or not, but she refused to get into an arguing match with him.

Mayor Colina reiterated that the intent of the discussion was not to argue but the time lapse between requests and responses was frustrating especially when certain hurdles were put forth to prevent them from getting them in a timely manner. He referenced the Rice Notices, noting that the entire Board and Director were invited to the last Council meeting, had declined and asked how did they get people to come in and talk to them. He thanked the group currently in attendance. He repeated that he did not want to have an argument; he wanted to reduce the adversarial sense that surrounded them and wanted to be direct and not waste anyone's time.

Ms. Wilson maintained that the Trustees had been totally transparent at every one of their meetings and there was always a Council liaison invited whether they showed up or not. All their financial statements were produced in plain view, nothing was hidden. She did not understand the intensive burrowing to find out what they had been doing. She repeated that nothing was hidden. The Mayor said that he understood. He said that if a member of the public had asked at one of their meetings if they were aware of an employment agreement with the Library Director, they would probably not be able to provide it; not that they were hiding it. So therefore, a request had been made. Ms. Wilson said that they had never in the past had to provide a contract. They simply said that the Board had hired the person. She added that there was no legal requirement that they would have to have a contract that she knew of unless it was a civil service type of library.

Mayor Colina said that he thought very highly of the Boards' availability at their level, but when certain things were asked for and not forthcoming and there was a little bit of a pushback from individuals, not necessarily from the Board, what they were trying to get past was the pushback. She noted that an apology was rendered by the Board President but he was under tremendous pressure to meet with the architects and be involved with everything. The Mayor remarked that he was not interested in embarrassing any individual. He asked who the Board perceived as the lead person for the Library renovation project. Ms. Whitmarsh replied that the Director was the lead.

Ms. Costantin said that in 2005, Ms. Fulgione was the children's librarian. The Director at the time, Pat Hannon, was going to be packaged out. Since Ms. Fulgione was the Children's Librarian already, it was to their benefit to hire her in house instead of going out for resumes, because she knew the workings of the library. At the time, she could not remember if they hired her without a contract.

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Mr. Scarpa said that the only thing the Borough had on file was a letter stating that she was hired and the starting salary dated September, 26, 2005. Ms. Ianora said that when they hired Ms. Fulgione, there was a subcommittee that interviewed several candidates and afterwards they decided to choose Ms. Fulgione. Ms. Wilson said that Ms. Fulgione was considered the best candidate at the time.

Mayor Colina asked for their expectations of the Director in managing the project for the library. Ms. Schnapp expressed that she had surpassed them and that Ms. Fulgione loved Emerson and they felt themselves so lucky to have her. The Mayor clarified his statement, explaining that he was not asking about her performance, but rather what the Library Board's expectations were for Ms Fulgione in terms of managing the renovation as the lead. The Board members said that she met with the architect every two weeks and emailed them. Ms. Wilson said that Ms. Fulgione and Mr. Bierman had been very active at each of the meetings. Mayor Colina asked if they would expect her to be present, reviewing with the architect and the contractor. The members agreed. Ms. Wilson said that everything was brought back to them for decisions.

Mayor Colina said there was a general feeling that the Board had been forthcoming with the documents requested and asked if they were aware of the time lapse of delays in the requests for information. He noted that Councilwoman DiPaola had come to a meeting and spoke directly to the President about the delay in receiving records. Ms. Wilson said that they were the only things that were delayed and they had been rushing things to the Borough Hall.

Borough Attorney Mooney stated he had personally requested several documents from the President and Director and if he asked one, the other sent a response - they were incoherent most of the time. Ms. Wilson asked if these requests had been presented in writing because there had been some question about exactly what he wanted. Mr. Mooney replied that he had never been able to get Ms. Fulgione on the phone so the requests had always been in writing. He added that he had more than one phone conversations with Mr. Bierman.

Councilwoman DiPaola noted that; although Councilman Browne was not present at the meeting, he had asked for a timeline of expenditures and punch list updates throughout the renovation project. She and many others had also asked for those documents several times over six weeks ago and then again the previous evening to find out exactly what the trustees were getting for their money but still had not received a response or any documents. She said that Mr. Bierman had showed her change orders last night but she had requested documents showing what had been paid.

Mayor Colina asked the trustees if the legal fees incurred by Ms. Whitmarsh would be paid by the Board. Ms. Whitmarsh answered that the Board was entitled to its own counsel and should not be using the Borough's counsel. Mayor Colina clarified that he was not asking about the rights, but asking for confirmation that bills would be paid by the Library Board. He asked the Board if they were aware of that particular line item in the budget. Ms. Wilson responded yes. He asked if they knew the amount it was capped at or the amount allocated. Ms. Whitmarsh said that there was an agreement with how high it could go. The Mayor asked the amount. Ms. Whitmarsh responded that the information was protected. The Mayor replied that he thought that it would be in the budget. Ms. Whitmarsh responded that they could make an OPRA request for the budget document. Mayor Colina informed her that he had that document but that was a highlighted example that unless certain questions were asked and answered factually, they were not going to be known. He said that he had asked them all a question, and they had not given them an answer because they did not know. Board members stated that it was brought up the previous evening. Mayor Colina said that he did not have the document in front of him, but believed that the allocation was for \$12,000. He added that; in essence, this was the crux of the whole thing and he thanked the Board for being there and sharing. But it was not a consistent sharing when certain information was asked for and the response was delayed or non-existent. .

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Mayor Colina said that at last night's Library meeting, Councilman Lazar had asked directly asked and the facts stated were that the project and renovation was on budget and on track and the contingency fund had not even been hit. The Board agreed. He asked for a description about how library personnel were handled. Ms. Ianora said that it was handled by the Director who was in charge and it was her area and unless there was a problem, they did not interfere. Mayor Colina remarked that he had visited a library website – he was not sure if it was the official State website – about a Library Director's roles and responsibilities, and it was his general opinion about what a Director should do was that they should be responsible for the daily operation of the Library, management and supervision of the personnel there and interfacing with the public. He inquired what other critical elements to include. Ms. Whitmarsh asked the purpose of this line of questioning. The Mayor explained that he was trying to make sure that everyone was on the same page and had a consistent understanding of the scope of work to be considered as the responsibility of a Library Director. Ms. Whitmarsh said that she thought that they were all on the same page; the Library Director managed the Library and she did not make any decisions without the approval of the Board which they voted on in open public meetings.

Mayor Colina said Ms. Wilson had earlier discussed the project and long hours that the Director put in. He wondered if this was a special arrangement or agreement. He asked if there was a set expectation that the Director would keep certain hours, for instance 10-5, because they were the trustees and made the decisions on her employment. Would they expect that she would be there to supervise the operation and personnel? Ms. Wilson replied that as far as they were concerned, she was phenomenal, the brightest person they could have, she was friendly to the public, warm, brought people in and their Library became alive. She added that Ms. Fulgione was brilliant with math and she did not know anything she couldn't do pronouncing Ms. Fulgione as 'amazing'. Ms. Ianora said that they were so impressed with Ms. Fulgione that they never established a policy that she would have to sign in and let them know exactly when she came and went - it was a matter of confidence and trust. Ms. Schnapp said they treated her like the professional that she was and she kept them informed all the time.

Mayor Colina referenced controls and balances and thanked them for the kind words on behalf of Ms. Fulgione. He thought the members needed to protect themselves by making sure the agreement was articulated or expressed in a document as opposed to the favorable comments she was receiving that day. He remarked to Ms. Whitmarsh that they were hopeful Ms. Fulgione would have the opportunity to come and talk to them directly. All he was trying to determine was how much they knew and, with all due respect, what they might not know; what their expectations were because as it was pointed out, the Board of Trustees was responsible for the hiring and employment of the Library Director. He added that one of the reasons the Labor Attorney was present was because of State Statute. He explained that he heard that the Library was an autonomous body, with the Governing Body having no jurisdiction over Library Director. Mayor Colina postulated that it could be true but he didn't know because he was not a lawyer. But when he got pushback when they requested information, he thought part of the description was to be a cooperative member of the community and that indicated to him that he was not getting the kind of cooperation he would have expected. He added that it ran a little bit contradictory to her professionalism that they made referenced to.

Ms. Whitmarsh cited and recited statute N.J. S.A. 40:54-12 - the Powers of the Library Board and emphasized that the Board had the authority to hire and set the Library Director's compensation. Mayor Colina said this was the statute he read so it was good to have consistency and thanked her for reading it. Mr. Gordon said he did believe that the Library was a public entity that was responsible to the public, that was a member of the community and when the leaders of the community asked questions, they should get answers. Mayor Colina said that this was the crux of any frustration he had been feeling and that was why he was bringing up information that they might not be exposed to and trying to get everyone on the same page to understand what the expectations were. He noted that it might not be in the statute but he did read a description that the Library Director should be a willing

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and cooperative participant in the community. Ms. Whitmarsh commented that this was not in the Statute. Mayor Colina responded that he had said that and since they had a recording device, he would go back and check that. He said that in the spirit of the 'family town', sometimes the family did not want to have a good dinner conversation, but he was just trying to make sure they were all on the same page.

Mayor Colina asked Ms. Ennis for comments on the Library Director and how they might improve their relationship, and also comments on the performance of the Board President and in an effort to get a better feel of what they could do to improve the flow of communication and unify which was the thrust of the subcommittee. Mr. Scarpa asked the Board at what point the attorney was hired. Ms. Whitmarsh said they could not ask. Mr. Scarpa remarked that he just asked it and informed her that they could ask it. He remarked that if she just said that they did everything in open, when had she been hired and what was her hourly rate? Ms. Whitmarsh retorted by asking when the Council's Borough Attorney was hired and at what hourly rate. Mr. Scarpa replied that the Borough Attorney was hired in January and received a \$7,500 retainer and was paid \$125 an hour. She asked if that applied to both of them. Mr. Scarpa said that he was talking about the Borough Attorney. She asked about the Labor Attorney and how much the town was paying him. Mr. Scarpa replied that he was getting \$150 an hour. He added that he had answered her questions and was asking her when she was hired and what her wage and retainer were. She replied that she was hired on Monday, did not have a retainer and it was \$125 an hour. Mr. Scarpa thanked her. He asked how she was hired on Monday if there was no Library meeting. Mr. Mooney also asked who retained her on Monday. Ms. Whitmarsh responded that she was informally retained on Monday and not formally retained until the previous evening. Mr. Mooney stated that Ms. Whitmarsh had called the Borough Clerk yesterday but was not retained yet. He asked how she had done that. Ms. Whitmarsh replied that she had called the Borough Clerk asking for an adjournment so that they could hire someone. All the time, before an attorney was retained, they called the court asking for an adjournment saying the client wanted to retain them and needed more time. Mr. Mooney replied that this was not court. She agreed that it was not a court, identifying the borough as a township. Councilwoman DiPaola asked if she had identified herself to the Clerk when she called. Ms. Whitmarsh said that she did. Ms. Dray said that Ms. Whitmarsh had given her name when asked but had not volunteered the disclosure that she was representing the Trustees or that she was an attorney. Ms. Whitmarsh said that this was incorrect and had recordings of their conversations.

Mayor Colina highlighted the exchange as part of the problem. When asked the question of when she was retained, Ms. Whitmarsh really did not want to answer until Mr. Scarpa was forthcoming.

Ms. Whitmarsh said that she wanted to make a statement to the public and press. If the public wanted to get a fair reading of what was happening in town, she would make a statement after the meeting. Mayor Colina exercised his right to call her out of order. He highlighted that this kind of negativity was what they were trying to get past and they were getting off the track.

The Mayor turned over some questions to the Council. Councilwoman Garis said that they had a huge renovation project being worked on. There were meetings approximately every second Thursday and asked to confirm if Ms. Fulgione was given the authority to oversee the entire project as Director. The Board agreed. Ms. Wilson stated that anything they learned, they ran it by the entire Board to vote on and approve. The Board agreed that Ms. Fulgione was in charge, and Ms. Wilson said that essentially, the Board was making the decisions because every bit of information was brought before the Board. Councilwoman Garis asked if the construction manager was on site working on the project from approximately 9 – 5 p.m. every day. Ms. Wilson said that she was not aware of the exact hours. She asked if someone was physically there every day overseeing the huge renovation project to make sure that things were running smoothly. Ms. Wilson replied that she did not think they could address that technically. Ms. Ianora stated she thought that part of the contract included a supervisor, someone who had the power to supervise but it was not necessarily every

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single day. It was agreed upon as part of the contract with the architect that there would be some supervision, whether it was every single day she could not say. Ms. Wilson added that they did agree to additional supervision over the minimum and more supervision than was absolutely necessary. Councilwoman Garis asked what the procedure was if there was an issue with the contractor who was there. Ms. Wilson said that they were not closely involved with that.

Mayor Colina said that he wanted to go back to personnel in the Library and asked the Board if they were aware that one of the staff's last days was that day. The Board said that they were and that they knew a while ago. The Mayor asked if that should be discussed in a formal meeting. They said that it was discussed. One trustee informed the Mayor that they found out when the the employee personally told her that they were leaving. He asked if the decision to hire an attorney was made the previous night at the meeting. A number of Trustees replied simultaneously - some saying that it was or wasn't voted on. Councilman Lazar said that if they were all there at the meeting they should know if they voted on it. One member said that there was a vote; another said that there was no vote. Ms. Ianora said that there was a vote to engage a lawyer the previous evening at about 11 p.m.

Councilman Lazar said that he was very enthused at the meeting the previous evening because they mentioned that the project was moving ahead and they had more than enough money to complete it and when they spoke about the stages, it made sense as well. That made him very happy. They had also spoken about change orders and he had given his opinions on that. Ms. Ianora noted that they did not have enough money to really complete the entire project and that included the interior items such as chairs, the table, new shelving. Councilman Lazar noted they had said there was \$40,000 untouched and that whatever was left over after the project could be used. Ms. Ianora said that it would be a matter of time before they could really get the project completed with the interior area. He walked away with the impression and thought that everyone agreed that the project was moving forward and the money was there to do the project and there might be money left over to buy furniture at the completion of the first phase. He had asked to be given copies of the change orders for review and they had agreed. He said that as soon as they had them available, to turn them over so that he could look them over and make sure that the change orders were relevant to things that were discovered that were closed up before that they could not plan on ahead of time.

Councilwoman DiPaola asked if there was a legal line item in their budget. Mayor Colina said that this was already identified and amounted to \$12,000. Mr. Scarpa remarked that this was for the renovation project; there was no legal line in the regular operating budget. Councilwoman DiPaola explained to the Board that the money set aside as a line item in the budget for legal expenses was directly effective to the renovation project. Ms. Wilson disagreed and countered that that was incorrect adding that they had hired an attorney in the past when there was a question about the police taking a computer out of the Library. Mr. Mooney asked who paid for that. Ms. Wilson said that it came out of an item in their Library budget to cover legal expenses.

Councilwoman DiPaola said that they had asked the Board to come that night because they wanted some answers and started to think that a lot of this was getting crazy when they just wanted to work with them. The Council was elected to do what was best for the Emerson taxpayers and several red flags went up when the Council liaison started requesting for additional funding for the project on their behalf. They had learned that there was not enough money for the circulation desk, furniture, and carpeting. They were thinking how could they start a project like this that they could not completely finish and make the best library for Emerson without being able to have everything. When they suggested using inmates to pull up carpet, they voted to not permit the inmates to do it and the Council had asked them to do it to save money. Then they were given a list of a whole host of other things that the inmates could do for the Library which they did not have the money for. They did not only want answers, they wanted to work with them so that Emerson had the best possible Library. Ms. Wilson stated that they did not want use inmates to rip up the carpeting

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because everything in the Library went on top of the carpeting. Councilwoman DiPaola asked if the contractor ripped up the carpeting in their spare time. Ms. Wilson did not know the details.

Ms. Ianora explained that the concept of redoing the Library happened years ago and they had gone to the Council about four years ago and were told that they did not have a plan. After that they hired an architect who presented a plan they assumed that part of the capital improvements would be shared by the town – new windows, ceiling, lighting systems – they did not think some of that was their responsibility. In planning the budget they assumed that part of the expenses would be taken up by the town. As it turned out, the town did not have the money so their plans had to be compensated because they had to put more funds towards the lights, ceiling and windows. That left a very small amount for the rest of the renovation. They had enough money for the carpet, but might not have enough money to fix the chairs or get tables or a circulation desk. They were hoping for donations. Councilwoman DiPaola asked if there should have been a plan and whether they should have known what money they could secure from the Borough before they started on the endeavor. Ms. Ianora replied that they were doing it in stages. They would be paying their bills, but were not happy in the sense that they were going to have a whole beautiful library.

Ms. Wilson said that they had presented to the last administration a PowerPoint presentation detailing everything in their whole plan and had been transparent. The Borough did not come up with the money when they hoped they would so they looked over the proposed plan to decide how much they could do of the renovation and that was how they had been working. Ms. Ianora said that out of 25 fluorescent lights in the meeting room, only five were operating. She asked if they should bring a candle and read by candlelight. So they were pushed and something had to be done. They could not have a Library with no lighting. Ms. Ianora agreed and asked if the building was the Borough's building and why they could not have continued with the capital improvements as a partnership. That would have helped to cover some expenses. Ms. Schnapp said that this was why they had alternate plans so they initially had stopped at Alternate Four – one of the change orders which was for a glass enclosure for the Children's Library – which they discovered they did have the funds for. They had been very cautious and only used the money they knew they could use for the project and the alternates were for the future.

Mr. Scarpa corrected the perception that the town had not made a commitment to capital improvements to the building. He detailed that over the years the Borough, outside of the Library's regular operating budget, had replaced the HVAC system, installed a new roof, had replaced the carpeting that the library just tore up, renovated the restrooms and the signs. He emphasized that the Borough had made a large capital commitment over the years. He did not want the public to think that the town had been neglecting the building. He said that the town had not done a full scale renovation but had done an all-purpose upkeep of many of the major ticket items in the building. Ms. Schnapp concurred and was appreciative adding that they went ahead with the plan and they thought they had a good one.

Councilwoman DiPaola said that Board of Trustees had hired the Director and that her salary was a was \$81,000. She asked what the Director's hours were supposed to be in the Library. Ms. Wilson said that this was very hard to pin down and it was the job Ms. Fulgione did whether it was worthwhile or not. Mr. Mooney asked for confirmation that based on making \$80,000, that they anticipated her being there 35 or 40 hours. One member responded yes. Ms. Wilson countered that you could have someone there 50 hours a week and if they were not competent, what good was it? Councilwoman DiPaola inquired if the Director worked at the library 40 hours a week. Mr. Mooney asked if they would be surprised to learn that she only worked physically on the premises about 8 hours a week. Ms. Wilson responded incredulously at his remark. Ms. Schnapp suggested that maybe she was at the other library or travelling to another Library or maybe working from home. Mr. Mooney then inquired if she was permitted to work from home. Ms. Wilson said that she was

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working short staffed and the Library had to be covered so she was there depending on when her staff could be there.

Councilwoman Garis interjected that she personally went to the library last week and wanted to speak to the Director about some of the documents she needed. She was told by a staff member that her hours were two evenings a week, four hours per evening and that was all she showed up at the Library. Councilmember Garis was concerned as a taxpayer and for the taxpayers and was a little upset that a half million dollar project was going on and the Director was not present. She wondered what would happen if there was an issue at the construction site. This was why she asked who was supervising the project and if someone was on the premises. Ms. Wilson responded by asking about all the hours dealing with the architects. Mr. Mooney said that the Director called in on all those meetings by phone and this was confirmed by the Zoning Official. Ms. Whitmarsh said that the Director had a doctor's appointment that evening and could not reschedule it. Mr. Mooney said that they were going to Rice Notice the Director. Ms. Whitmarsh said that was fine but that they should not say that the Director was missing a meeting when she asked for the meeting to be changed.

Councilman Lazar said that he had been on the Council when the Library Board came forward with a plan two or more years ago and that they had a need for lighting at that time. He had gotten in touch with PSE&G through the Administrator because PSE&G were offering grants to replace lighting for free. Mr. Scarpa had secured that grant for Borough Hall and the Library because they had expressed that they had a lighting problem. He noted that the Library expected the town to maintain the lights and they had responded and offered them to have people come in and replace the lighting for free. Ms. Wilson maintained that PSE&G said that the lighting would not be suitable for the Library's purposes. Councilman Lazar asked if she had gotten that in writing. She said that she did not. Councilman Lazar stated that PSE&G had said that they would put in adequate lighting for the Library. Ms. Whitmarsh asked if the Councilman had gotten that in writing. Councilman Lazar said that he did not have that in writing, but was told. If they were going to make an accusation that it was not adequate, then he needed to see documentation from a lighting expert that PSE&G would not be putting in proper lighting for a Library which he found hard to believe in his opinion. Mr. Scarpa said there would have been fewer light bulbs but they would have been more powerful and efficient. Councilman Lazar said that they would have had more light than they had originally. Ms. Wilson responded that there was an issue with the computer areas in the center of the Library and the lighting would have been too harsh for that area – that was one consideration. Councilman Lazar emphasized that they were trying to assist them with the lighting, not blowing them off and did their due diligence in addressing that concern.

Councilman Lazar added that when the Library came to them originally to talk about money he had a copy of all the funds the library had which the CFO supplied after an audit. When the Library gave testimony about how much funds they had set aside, those numbers were totally different than the numbers in front of him. This disturbed him at the time. When the Board came back with the PowerPoint presentation it explained a lot, but they readjusted their numbers from the first presentation made to the Council to make them more accurate and in line with what he was looking at originally. He gave them credit for that. At that time when they said they wanted to move forward with the project, the Council had made it quite clear they did not have any money to help them because of the economy, like every other town. They were told that if they had the money and wanted to move forward with the project, they were encouraged to do so. They were also told about different phases and were encouraged they did have the money to complete it, maybe not 100%, but life was a compromise. He was concerned that not everyone understood everything that was going on because he was getting different answers from different people just in the last hour of discussions.

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Councilwoman Garis said that she really wanted the Library to be successful. It was very important to her and her role as a Councilwoman was to make sure that it was properly supervised, went according to plan and she would do everything to help them. But she wanted to feel comfortable with the process. She hoped they understood that. Ms. Ianora said there were pitfalls, imperfections, and they were there to hear about them and they wanted to correct them and make them better. She said that it was a learning situation for her and the rest of the Board and if there was something that had to be changed or improved, they will definitely want to do it. She had not known about the inconsistencies. Mayor Colina referenced whether a contract was signed when the attorney was hired. Ms. Ianora said that there was no contract.

Councilman Lazar commented that as a volunteer for many years, he could greatly appreciate the time they put in. He said that as volunteers, sometimes people felt that they were not being recognized for what they were doing but he wanted to tell them he recognized and appreciated what they were doing. He offered his help because he was a licensed building inspector and in construction He was disappointed that they had never asked for his help because he would have shared his expertise with them. They needed to work together as a team since God gave everyone gifts and those people that had certain gifts, you gave those people that job to work with because they were going to do a good job. He said that if everything was shared back and forth, this would never have occurred and he was distressed that it had come to that because he had the utmost respect for all volunteers.

Councilwoman DiPaola said that they really appreciated that the volunteers had come in that evening. She thought that it was a shame the five of them were there answering for a Library Director and Board President who sent them and did not come in to answer for themselves. She thought that it was awful that some people did not even respond to the Rice Notice or acknowledge it. She thanked them for being forthcoming with information for the Council since that was all they asked for. She commented that if the Director and President were forthcoming when they started asking for information months ago, it would not have had to come to this.

Mayor Colina said that his respect for the Board of Trustees had gone up immensely and was in agreement with Councilwoman DiPaola in saying that they recognized them as volunteers and was a little concerned about the leadership of the Board of Trustees. It did not just apply that evening with the absence of the leadership, but it seemed to have been a consistent situation that they did not get what they asked for. How could they assign that responsibility to anyone but the leadership whom he considered the Board President and Director? He asked the trustees who were present for suggestions to have some direct conversations with the President and Director. Ms. Schnapp said that in past years, they would invite the Mayor and Council to an annual breakfast and no one would show up, or one person would. They put themselves out as volunteers and would like to arrange a formal gathering to show them the Library.

He asked if some of the questions asked that evening would be addressed more appropriately by their leadership. The Board agreed. The Mayor said that was the point that he was making in terms of having them come there. He said that because they were in a fiscal crunch, noting the legal representation there, and could not help but feel that they did not have to get to this point. As Mayor and as a resident they had gotten to a point that he almost saw coming which was why he established the subcommittee and apologized if anyone was made to feel uncomfortable that night. He again remarked that he only had respect for the volunteers and thanked them for showing up and sharing their insights because that was all they were trying to get. He said someday he was going to try to have this conversation, in this particular form if necessary, with the Library Director and the Board President. He did not think that was unfair.

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Ms. Costantin asked if requests had been made in writing. Mr. Mooney confirmed that they were. Mayor Colina said that particular question highlighted one of the feelings that he had – that so much went on and that each of the trustees were involved in specific aspects of the Library and project but it was not fair to think that they could have the answers to the questions that were asked that evening. Ms. Costantin asked for a copy of the questions. Mayor Colina explained that at the previous meeting Mr. Scarpa was directed as a paid employee to interface directly with the paid Library employee, the Director. He also asked that any correspondences be copied to the entire Board and the entire Governing Body. The Board members said that they were aware of that. He said that his point was that they were not all on the same page and they all needed to get there to have the best Library possible.

Councilwoman DiPaola asked if the Board wanted to be emailed on all their correspondence. She said that Ms. Fulgione wrote a letter to Mr. Scarpa which said Mr. Scarpa should stop wasting the Board's time by making them privy to the emails. Ms. Ianora asked when this email exchange took place. She was told that it was made two days ago. Councilman Lazar said that he was very disappointed by the comments made in that email.

Mr. Mooney stated that since it was difficult to get in touch with the Director or the President, to make sure that they had since signed the contract with the architect since as of last week it wasn't. Board members thanked the Council for having them at the meeting and found it very productive.

### 8. PUBLIC COMMENT

☞ **Motion** to suspend the rules to move up the Public Comment portion of the meeting was moved by Councilwoman DiPaola, seconded by Councilman Lazar and carried.

Before opening the meeting for comments from the public, Mayor Colina 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 Colina 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 removal from the Council Chambers.

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

Mr. Louis Schnapp, 102 Ross Avenue said that in view of the fact that the Trustees had been summoned in effect to appear before the Governing Body, there shouldn't be aspersions cast on them when they hired real counsel because of the real responsibilities they incurred by appearing before them.

Mayor Colina said he did know that any aspersions had been cast and asked if that night's meeting was what he was referring to. Mr. Schnapp responded affirmatively and said that when someone was summoned before a Governing Body they had to be concerned about what they thought their responsibilities were and what you might say out of turn and thought that it was necessary.

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

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

**6. CLOSED EXECUTIVE SESSION - Resolution No. 127-11**

☞ **Motion** to go into an executive session to discuss matters exempt from the public as duly noticed by Resolution No. 127-11 was **moved** by Councilman Lazar, **seconded** by Councilwoman DiPaola and carried by roll call vote.

**RC: Council members:**

**YES: DiPaola, Garis, Lazar**

#11-6/30-28	Personnel - Library Board of Trustees
#11-6/30-29	Personnel - Library Director
#11-6/30-30	Personnel - Police Chief Contract
#11-6/30-31	Collective Bargain Agreement - DPW

**4. RECONVENE**

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

☞ **Motion** to approve the terms and conditions of the Chief's contract as agreed upon in Closed Session in the latest revised document was moved by Councilman Lazar, seconded by Councilwoman Garis and carried.

**RC: Council members:**

**YES: DiPaola, Garis, Lazar**

**9. ADJOURNMENT**

With no other business to address, at the request of Mayor Colina, a motion to adjourn was **moved** by Councilwoman DiPaola, **seconded** by Councilman Lazar and carried at 6:28 p.m.

Carol Dray, RMC/CMC/CMR  
(Proofed 08/24/11)

July 12, 2011