

MINUTES APPROVED WITH CORRECTIONS 11-13-12



MINUTES
BOROUGH OF EMERSON
MAYOR AND COUNCIL
August 7, 2012
7:30 P.M.
Borough Hall-Council Chambers
Emerson, NJ 07630



Mayor Colina called the meeting to order at 7:32 p.m., and identified the emergency exits. Mr. Ken Hoffman led the assembled in the salute to the flag. The Mayor asked everyone to remain standing for a moment of silence, good thought and prayer for victims of violence, specifically those in Aurora, Colorado where on July 20th a mass murder took place and the day before in a suburb outside of Milwaukee, Wisconsin and for the victims' family and friends.

O.P.M.A. Statement

Mayor Colina read the Sunshine Statement announcing that the meeting of August 7, 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

ABSENT:

Council President Shaw, Councilman Worthington

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

III. EXCUSED ABSENCE OF GOVERNING BODY MEMBER

- Councilwoman Garis for absence from Regular Meeting of July 10, 2012
- Councilman Worthington for absence from Regular Meeting of July 10, 2012

☞ **Motion** to excuse Councilwoman Garis and Councilman Worthington for absence from the Regular Meeting of July 10, 2012 was **moved** by Councilman Rivers, **seconded** by Councilwoman DiPaola and carried unanimously

IV. PROCLAMATIONS & CITATIONS - None

V. APPOINTMENTS/RESIGNATIONS - None

VI. UNFINISHED BUSINESS

- Emerson Woods Drainage Ditch - Michael Catania –Conservation Resources – Mr. Scarpa explained that Bergen SWAN had approached the Borough over a year ago about doing a drainage project at a location where there was a lot of erosion. However Bergen SWAN would not be doing the project now and had introduced Mr. Scarpa to Mr. Catania who would present and answer questions about his group.

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Mr. Catania explained that Conservation Resources was a non-profit grant maker and conservation intermediary which matched up people who needed to satisfy regulatory requirements or were seeking to make a philanthropic investment with people who were looking to fund projects. He added that they worked with local groups and local governments. He described the gorge being created at Emerson Woods from the flow of a storm water pipe. He noted that the stream corridor was eroding, with banks and trees falling in, and people were being deprived of the use of the park. He added it was also right upstream of the reservoir and at some future point the sediment would get into the public drinking water supply.

Conservation Resources did some conceptual designs and cost estimates. He said it was a great project and they wanted to see it done but were not in a position to assume those responsibilities. However they would oversee it and be the project manager. They had put out an RFP and asked for bids that were due back August 20th. The project would consist of a concrete box that would dissipate water flow. They needed the consent of the Borough - a memorandum of agreement allowing Conservation Resources to fund the project, the Borough would agree to let them do it on its property, the Borough would not have any responsibility for getting permits, or any costs of the project but would agree to maintain it after the project was done. He added that the banks would be regarded and some terraces with plants would be put in. They had a budget to monitor and replace the plantings for three years at their expense. They would also make sure the Borough was indemnified, that hold harmless insurance was provided.

He said an engineer would design the project and the Borough Engineer would have to sign off on the design and the construction. The Borough would have complete control of what was done at that location.

Mr. Catania responded to questions related to costs, oversight and indemnity and said he hoped to begin the project in mid-September. Councilman Rivers said that it was an area that certainly needed attention and thought it was a great opportunity for Emerson. Mayor Colina thanked Mr. Catania and said that it was a win-win and was looking forward to reviewing more information.

Ms. Lynn Sharkey of Bergen SWAN said this was a very severe problem and the Borough had a chance to get essentially a free \$400,000 to \$450,000 deal and thought they should take it. She said that they needed to investigate what storm sewers were discharging into that pipe and hoped to work with DPW Superintendent Joe Solimando on that.

Mr. Mooney said he was waiting to hear back from the Joint Insurance Fund on insurance requirements. There were also a few other things in the memorandum of understanding that he wanted to go over.

- Personnel Policy/Employee Handbook –Councilman Knoller stated that he had previously distributed the changes related to the compensatory and sick time leave sections in the Personal Policy that also corrected a typo discussed at the last meeting adding that the Labor Attorney Ron Gordon had reviewed those changes. Subsequently, Councilman Knoller made some additional minor changes to the document that he distributed that evening. Mayor Colina thanked Mr. Scarpa, Councilman Knoller and Councilwoman Garis for reassessing the Personnel Policy and he strongly encouraged the rest of the Council to evaluate the policy as well. He suggested that the Council should begin their analysis in terms of basic elements that should be included in a good HR policy. He referenced a JIF workshop he attended with Councilman Knoller and Councilwoman Garis where it was emphasized that every policy should utilize job descriptions and performance evaluations or the municipality could be at risk. He encouraged the HR Committee to make sure those elements were in place to begin with for purposes of fairness and consistency to the employees and to protect the Borough. He planned to revisit this topic with the Council members and Mr. Scarpa.

VII. NEW BUSINESS

- Consideration of hiring a new Police Officer – Councilman Rivers reported that the Police Department claimed that it was lacking in personnel to adequately staff the department and while they were considering promotions within the different areas there would also be a need for hiring a police officer. Chief Rossi stated that in his last two budget presentations he requested permission to hire at least one police officer and considered the PBA contract bargaining unit agreement a hurdle preventing the hiring. He believed that the department had proven themselves as hard

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working under the conditions all in the best interests of the Borough. But losing two officers put them down four bodies which he considered an unsafe situation for the town and unhealthy for the officers. He claimed that if no new officers were hired by 2013 it would be difficult to provide the essential service that was necessary to protect the borough. He stated the process of hiring a police officer can take 3 to 5 months and suggested that it begin as soon as possible to begin the 2013 schedule. He asked them to take into consideration his experience, training and professionalism and devotion to the community to understand the necessity to consider hiring at least one officer. He said they could hire two officers after losing one officer and still save, with benefits, over \$20,000. He then asked for four officers. Since the Police Department was losing two officers this year, they could hire four individuals and it would still be cost effective. He stressed that he would do his best to solicit the best candidates for the Borough. Correction of Omission (DD10/16/12): Councilwoman DiPaola asked Chief Rossi had long it took to complete the Police Academy. She also asked the Chief Rossi that if there were no alternate route candidates left it could take a year to get a new officer on the road. Councilwoman DiPaola also mentioned that two members of the Appropriate Authority were not present that evening.

Councilman Rivers explained that it was a lengthy process from conducting the search for a qualified candidate through the subsequent field training to performing as a full-fledged police officer. He added the goal was to get the bargaining unit agreement settled so anyone hired would be under the new agreement and emphasized the need to get the process moving quickly.

Motion to approve the hiring process of one police officer with a January 1, 2013 effective date was **moved** by Councilman Rivers, **seconded** by Councilwoman DiPaola and carried by roll call vote of 4-0:

RC: Council members:

YES: Garis, Rivers, Knoller, DiPaola

- American Legion – Mayor Colina said that he had heard that the American Legion property was up for sale but did not know the status of the building. He wanted to determine their options and alternatives. Mr. Mooney recommended conducting a title search on the property. He said the files he obtained only went back to the 1970's and discussed whether the Borough may have deeded the land over to the American Legion. There could be language in the title that would cause the property to revert back to the Borough. Mr. Scarpa suggested that Mr. Mooney first contact the commander of the American Legion to see if they would provide any paperwork. Mr. Mooney would report back at the next meeting as to whether they were able to provide any documentation.
- Certification of Municipal Affordable Housing Trust Fund Status - Mr. Scarpa informed the Council that a form was filled out and required the Mayor's signature.. He asked for a general consensus to do that. He indicated that \$187,500 would go to United Way and a balance of about \$93,000 would go back to the state.

Councilman Knoller interjected with a request to vote on the changes to the Personnel Manual discussed earlier in the meeting. Councilman Rivers queried if he had received any comments or feedback from Council President Shaw. Councilman Knoller stated that he had distributed the information twice in July to the entire governing body and had received no input from anyone. Councilman Rivers asked if it would hurt to wait two weeks to vote on it. Councilwoman Garis answered that they had already checked with Borough Labor Attorney Ron Gordon and it was supposed to have been voted on it at the last meeting. Councilman Knoller's preference was not to postpone it again but to take action on it at this meeting so as to move forward with other items under discussion in the policy. Councilman Rivers asked if action was not taken that evening whether it would stop their progress of working on other items in the policy over the next two weeks. Councilman Knoller considered that it would. Councilwoman Garis agreed stating that she would like to move forward but offered that if Council President Shaw had any issues with the changes they would acknowledge that and revisit the changes if necessary. Councilman Knoller detailed additional changes as follows: 'aforementioned employees' to 'any employees' and that the Borough Administrator would now be required to provide his compensation time on the first and third Tuesday of the month; and if that fell on a holiday, it would be due on the previous business day. Councilwoman DiPaola asked if Mr. Gordon had approved the most recent changes since he had approved the prior changes. Councilman Knoller said he had not spoken with Mr. Gordon about those particular changes presented that evening. Mr. Scarpa said he did not have a problem with the changes. He added that changing to 'any employee'

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did not isolate specific employees, but included all employees. Mr. Scarpa said he did not think legal counsel would have a problem with that. Councilman Knoller added that Mr. Gordon had been very on board with the changes with no push back or change of opinion.

☞ **Motion** to approve the changes/amendments to the Personnel Policy as it pertained to compensatory time and sick leave was **moved** by Councilman Knoller, **seconded** by Councilwoman Garis and carried by roll call vote of 4-0:

RC: Council members:

YES: Garis, Rivers, Knoller, DiPaola

VIII. INTRODUCTION OF ORDINANCES

Mayor Colina announced that Ms. Dray would read the following ordinances by title and they would be further considered at a Public Hearing to be held on August 21st, 2012 at 7:30 p.m. in the Council Chambers of the Borough Hall, Municipal Place, Emerson, N.J. and published in the August 10th, 2012 edition of the Ridgewood News by summary. He added that the ordinances were 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:

1448-12 AN ORDINANCE AMENDING CHAPTER 274 OF THE CODE OF EMERSON ENTITLED VEHICLES AND TRAFFIC ARTICLE III SCHEDULE XIV: § 274-50 ENTITLED "NO PARKING" AND §274-53 SCHEDULE XVII: TIME LIMIT PARKING

☞ **Motion** to approve Ordinance 1448-12 on first reading was **moved** by Councilman Rivers, **seconded** by Councilwoman Garis and carried by roll call vote of 4-0:

RC: Council members:

YES: Garis, Rivers, Knoller, DiPaola

1449-12 AMENDING CHAPTER 163 ENTITLED HISTORICAL PRESERVATION COMMISSION TO ADD LANGUAGE TO POWERS AND DUTIES

☞ **Motion** to approve Ordinance 1449-12 on first reading was **moved** by Councilwoman DiPaola, **seconded** by Councilman Rivers and carried by roll call vote of 4-0:

RC: Council members:

YES: Garis, Rivers, Knoller, DiPaola

Second Reading and Public Hearing:

1446-12 AN ORDINANCE TO FIX THE SALARIES, WAGES, COMPENSATION AND OTHER TERMS OF EMPLOYMENT OF CERTAIN EMPLOYEES OF THE BOROUGH OF EMERSON FOR THE CALENDAR YEAR 2012

Mayor Colina had questioned the CFO who confirmed that the funds for the stipends for the OEM Coordinator and Deputy Coordinator were adopted in the 2012 budget. Mr. Scarpa agreed and confirmed the omission and that the stipends should have been included in the Salary Ordinance.

☞ **Motion** to open the meeting to comments from the public on Ordinance #1446-12 was **moved** by Councilman Rivers, **seconded** by Councilwoman DiPaola 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 #1446-12 was **moved** by Councilwoman DiPaola, **seconded** by Councilman Rivers and carried.

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☞ **Motion** to adopt Ordinance #1446-12 on second reading was **moved** by Councilman Rivers, seconded by Councilwoman Garis and carried by roll call vote of 4-0:

RC: Council members:

YES: Garis, Rivers, Knoller, DiPaola

1447-12 AN ORDINANCE AMENDING CHAPTER 232 OF THE CODE OF THE BOROUGH OF EMERSON ENTITLED "SIGNS AND AWNINGS" §232-3 TITLED PERMITTED SIGNS ADDING A PROVISION TO LIMIT SIZE AND NUMBER OF SIGNS PERMITTED ON A SINGLE PROPERTY OR PARCEL OF LAND

☞ **Motion** to open the meeting to comments from the public on Ordinance #1447-12 was **moved** by Councilman Rivers, **seconded** by Councilwoman DiPaola 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 #1447-12 was **moved** by Councilman Rivers, **seconded** by Councilwoman Garis and carried.

☞ **Motion** to adopt Ordinance #1447-12 on second reading was **moved** by Councilman Rivers, seconded by Councilwoman Garis and carried by roll call vote of 4-0:

RC: Council members:

YES: Garis, Rivers, Knoller, DiPaola

IX. REPORTS

- Borough Administrator – Mr. Scarpa reported that he had prepared a draft brochure for the 9-11 Memorial and sent it to the Council for their feedback. Mayor Colina offered to forward it to the 9-11 Committee to solicit input and encourage participation but Mr. Scarpa said he had already done so. The Mayor identified his concerns, not in terms of the flyer, but in terms of the committee and the lack of participation. He said a couple staunch members had come to every meeting but for the most part the attendance had dropped off. He said that if this were to continue, he would almost suggest they bring the monument aspect of the committee back to the Council members.

Mayor Colina continued noting that the flyer identified the cost of the monument at \$35,000 and he was looking for input and feedback from the committee members and Council members if they ~~was~~ (DD10/16/12) were on board with that amount. He added that with all respect for 9-11 and what it meant, and with all due respect for Mr. Scarpa and a couple of committee members, the committee had lost a little momentum and he wondered why participation had dropped off.

Mr. Scarpa noted that the monument person said he had spoken to had said that if they did not have a commitment by mid July the monument would not be ready for September 11th. Mayor Colina admitted that he had experienced sticker shock when he had been asked his impressions of the plans and the cost but was relieved when told that the plans could be modified and were flexible. In addition, the placement of the monument would have to be placed elsewhere besides the flagpole as originally planned because of gas and electrical underground utilities.

Councilwoman DiPaola ~~queried~~ asked (DD10/16/12) Mayor Colina for his opinion of what he considered a worthy amount of money to spend on a monument dedicated to commemorating 9-11 adding that she did not understand his sticker shock. Councilman Rivers interjected that it appeared that participation from the committee was not at a level that was expected, needed and wanted. He noted that, through no fault of Mr. Scarpa, if the committee had been more involved this project could have been completed at this point. Councilwoman DiPaola asked how many people had been attending the meetings. Mr. Scarpa replied that Mayor Colina, Mr. Sudano and Mrs. Rainieri were regular attendees and that; although some people had valid excuses, others he did not hear from at all. Councilwoman DiPaola suggested making the committee a little smaller and consistent with the people who had been participating and let the other people fall off.

In response to Councilwoman DiPaola's earlier question, Mayor Colina commented that he considered an appropriate amount for a monument a difficult question to answer. He said he had sticker shock for the \$35,000 because the architect who designed it originally advised him that he

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thought it would cost in the vicinity of \$12,000 to \$15,000. So an expectation had been set and that led to his sticker shock at the \$35,000. In terms of what he thought was an appropriate amount; he did not think that was a fair question and one he could probably not answer. He had meant no disrespect to 9-11 by his remark adding that he had worked at the World Trade Center four different times in his life and had lost very close friends on September 11th. He said it was a very significant tragedy in American history but he quantified his concern over the amount explaining that Emerson, the family town they all loved, was not ground zero. He proposed perhaps dismantling the 9-11 Committee completely and putting it before the Governing Body to make those tough decisions of how much money to spend, monument placement, and fund raising activities that went along with it. He said that his heart was broken about 9-11 so he couldn't say what the appropriate amount was – if he had \$500,000, he might spend that amount.

Councilwoman DiPaola responded that she certainly didn't mean to say anything disrespectful and now understood what he meant by sticker shock since he was given an estimate of \$12,000 to \$15,000 and that now made sense. She said that perhaps the amount spent should be dictated by the donations that came in and then the design would be revamped. Mr. Scarpa explained that what would be spent was based on the design. The Borough had utilized the architect that Council President Shaw asked to come up with the design at no charge and the committee chose that design. He explained that it was not small, but rather 14 foot long, 3 foot high and 3 feet below the ground, with marble, granite, stainless steel lettering and thought the architect had underestimated the cost. He proposed getting an estimate from another monument company. Mayor Colina said he did like the gentleman they got the estimate from because he seemed flexible. Mr. Scarpa agreed and said he was very knowledgeable too.

Mayor Colina proposed sending out a strongly worded letter to committee members to encourage them to state their position in terms of their desire to proceed and then they would make a decision.

Mr. Scarpa said the Pascack Valley Consortium had gone out to bid on audits of electric, gas, phone lines, and fire hydrants. He reviewed the annual audit and explained that for the Recreation Department, it was a repeat recommendation because it is run by volunteers. There was a meeting with representatives of all the different sports where they were walked through the purchasing and deposit processes. The garbage and recycling calendar was sent to everyone and was effective August 1st. PEOSH had performed a surprise safety audit of the Police Department and violations were found with penalties of \$1,591 per day per violation. An electrician had been in Borough Hall correcting problems. The third annual shredding day had taken place and was successful. The Borough had received a report from the Borough Engineer regarding a crosswalk at Ackerman Avenue to roll out the project for solicitations of bids. A dog and cat census was completed and 300 people were contacted to properly register their pets. The 2012 Road program was completed. The sewer relining project on Hillcrest was being awarded and came in for about half the engineers' estimate.

☞ **Motion** to approve the engineer going out to bid on the pedestrian crosswalk at Ackerman Avenue was **moved** by Councilman Rivers, **seconded** by Councilman Knoller and carried by roll call vote of 4-0:

RC: Council members:

YES: Garis, Rivers, Knoller, DiPaola

X. 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 to comments from the public was **moved** by Councilwoman DiPaola, **seconded** by Councilwoman Garis and carried.

Ken Hoffman, 61 Emwood Drive commented on the trees being removed on the Emerson Woods drainage project, noting that it would require the approval of the Shade Tree Commission. He did not think they would have any problem with it. He also had questions about irrigation.

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Mark Orrechio, 78 Karen Lane asked if anyone would have to come before the Land Use Board for anything related to the Emerson Woods drainage proposal. Mr. Mooney said he would check on this with the Land Use Attorney but did not think so.

Before closing to comments from the public, Mayor Colina said Community Life reporter Kim Redmond was moving on to bigger and better things and wanted to extend congratulations of the Governing Body to her and wish her god speed in her new assignment as Managing Editor. He thanked her for what he considered her fair coverage of the family town of Emerson and wished her good luck.

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

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

XI. RESOLUTIONS ON CONSENT AGENDA NO. 138-12

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 #138-12 was **moved** by Councilman Rivers, **seconded** by Councilwoman Garis and carried by roll call vote of 4-0:

RC: Council members:

YES: Garis, Rivers, Knoller, DiPaola

- Ca 139-12 Certification of Governing Body of Annual Audit – Group Affidavit
- Ca 140-12 Approve Corrective Action Plan – 2011 Audit
- Ca 141-12 Award 2012 Turn-Out Gear Contract for Emerson Volunteer Fire Department to Firefighter One LLC of Sparta, NJ for 20 sets of gear for \$43,016
- Ca 142-12 Award Police Car Contract to Winner Ford for two (2) vehicles for a total cost of \$61,839
- Ca 143-12 Award contract to En-Tech Corporation for \$91,554.50 for Sanitary Sewer Relining of Vivian Avenue and Hillcrest Avenue Easement
- Ca 144-12 Redeem Tax Sale Certificate for Block 1009 Lot 13 in the amount of \$31,735.86
- Ca 145-12 Affirm Renewal of Membership in the Bergen County Municipal Joint Insurance Fund
- Ca 146-12 Authorize Mayor Colina to execute agreement as a participating member of the Bergen County Joint Municipal Insurance Fund
- Ca 147-12 Approve Cancellation of Grant Balances
- Ca 148-12 Cancellation of Trust Balances
- Ca 149-12 Approve Mayor and Council Regular Meeting Minutes of July 10, 2012
- Ca 150-12 Award contract to LKL Contracting, 457 Shadyside Road, Mahwah, NJ 07446 for \$36,840.00 for the Community Development Grant Senior Citizens Center Kitchen Re-model
- Ca 151-12 Chapter 159 – Highway Safety Grant – Drive Sober or Get Pulled Over – in the amount of \$4,400.00

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 Councilwoman Garis and carried at 9:00 p.m.