



MINUTES
BOROUGH OF EMERSON
MAYOR AND COUNCIL
August 16, 2011
7:30 P.M.
Borough Hall-Council Chambers
Emerson, NJ 07630



Mayor Colina called the meeting to order at 7:40 p.m. The Mayor led the assembled in the salute to the flag and asked for good thoughts for neighbors and residents and all victims and friends and family facing breast cancer.

O.P.M.A. Statement

Mayor Colina read the Sunshine Statement announcing that the meeting of August 16th, 2011 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 22, 2010; 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, Councilman Browne, Councilwoman DiPaola, Councilwoman Garis, Councilman Lazar, Council President Shaw, Councilman Rivers.

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

III. EXCUSED ABSENCE OF GOVERNING BODY MEMBERS

- Council President Shaw
- Councilwoman Garis

☞ **Motion** to excuse the absence of Council President Shaw and Councilwoman Garis from the August 2nd Mayor and Council meeting with notice was **moved** by Councilman Rivers, **seconded** by Councilman Lazar and carried.

IV. PROCLAMATIONS & CITATIONS - None

V. APPOINTMENTS/RESIGNATIONS

- Resignation of Library Board of Trustee Vice President Gloria Wilson effective August 12, 2011

☞ **Motion** to accept the resignation of Library Board of Trustee Vice President Gloria Wilson effective August 12, 2011 was **moved** by Council President Shaw, **seconded** by Councilwoman Garis and carried.

- Appointment of Owen Cassidy as a Trustee of the Emerson Public Library for the unexpired term ending 12/31/11

☞ **Motion** to appoint Owen Cassidy as a Trustee of the Emerson Public Library for the unexpired term ending 12/31/11 was **moved** by Council President Shaw, **seconded** by Councilman Rivers and carried unanimously by roll call vote.

RC: Council members:

YES: Browne, Rivers, Shaw, Garis, Lazar

NO: DiPaola

VI. UNFINISHED BUSINESS

- Library Referendum – Councilman Browne withdrew this topic and proposition from further consideration explaining that the Library Board of Trustees stepped up and did the right thing.

VII. NEW BUSINESS

- 2011 Best Practices Checklist – Mr. Scarpa said that he and CFO Catherine Henderson had gone through the list. The Borough met the standards and will get all its aid. Mayor Colina thanked all the Borough personnel responsible.
- EEC Environmental Fair – Councilman Browne discussed the Emerson Environmental Education Fair. He invited Margaret Boyce to address the Governing Body to discuss their proposal. She said that the fair would celebrate the environment and have a place where vendors would come and showcase their products. The school system would also be invited to provide educational information. She proposed a target date during the first week of next June.
- Spruce Avenue – Mr. Mooney said that after speaking to the Title search agency it appeared that the Borough owned the property. They would know definitely in a week to ten days. If that was the case, they could have a resolution (ordinance) ready for the September 6th meeting. He estimated that the title search would cost under \$2000.00. He also confirmed that the Borough owned the Palisade Avenue property and it could be advertised for sale. A resolution (ordinance) could be placed on the next agenda. Councilman Rivers stated there were some concerns about two homes being built on Spruce Avenue. The Land Use Board had already approved the plans for those two lots but one of the biggest concerns was nonconforming houses. If the builder doing those two lots was not going to go with the original plan, he did not think the Borough would want to sell that lot and have another small house on that road. That may change their mind as to whether they would want to sell it because he did not know if it would help that neighborhood. His original idea was to put two houses on larger lots instead of having two or three narrow, smaller houses. Councilwoman DiPaola stated that the Land Use Board granted variances to have those two homes on the property that was owned by the applicant. Had he gotten the approval prior to putting the houses up, he would have considered spreading the houses out and putting the two houses on larger lots. But at this point, he had begun construction and the Land Use Board granted the variance because in that neighborhood none of the lots were conforming. Councilman Rivers asked Councilwoman DiPaola to find out if there would be a change in plans so they could make a decision on whether they wanted to sell that lot or not.

VIII. INTRODUCTION OF ORDINANCES

FIRST READING:

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 September 6th, 2011 at 7:30 p.m. in the Council Chambers of the Borough Hall, Municipal Place, Emerson, N.J. and published in August 19th, 2011 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.

1432-11 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 APPROPRIATE A STATE GRANT, 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 1432-11 on first reading was **moved** by Councilman Rivers, **seconded** by Council President Shaw and carried by roll call vote:

RC: Council members:

YES: Browne, Rivers, DiPaola, Shaw, Garis, Lazar

- Capital Budget Amendment – Resolution #154-11

☞ **Motion** to approve Resolution #154-11 Capital Budget Amendment was **moved** by Councilman Rivers, **seconded** by Council President Shaw and carried unanimously by roll call vote:

RC: Council members:

YES: Browne, Rivers, DiPaola, Shaw, Garis, Lazar

SECOND READING AND PUBLIC HEARING:

Mayor Colina said that Councilman Lazar had made some suggestions for changes to the language within the ordinance. Councilman Lazar noted there were some conflicts in the wording and therefore he could not vote in favor of it. He thought it would be better to reintroduce it at a later date. Councilman Browne asked for some background on why the ordinance was being introduced. Mr. Scarpa explained that there was a business in town operating in a residential area and the situation led to a court proceeding. Councilman Browne said that he had received some feedback and wanted to make a motion to table the ordinance and revisit it. Councilman Rivers said that he thought it was going to be stricken and thought over. Councilwoman DiPaola agreed and said that she had heard from residents with major concerns. Mr. Scarpa suggested voting no and reintroducing it later with major changes

1430-11 AN ORDINANCE TO AMEND THE CODE OF THE BOROUGH OF EMERSON CHAPTER 290 THEREOF ENTITLED ZONING TO ADD A NEW SECTION UNDER ARTICLE V TITLED GENERAL REGULATIONS TO ENACT LEGISLATION REGULATING THE PARKING OF COMMERCIAL VEHICLES IN RESIDENTIAL DRIVEWAYS AND AMENDING A DEFINITION UNDER ARTICLE II TITLED DEFINITIONS AND WORD USAGE

☞ **Motion** to open the meeting to comments from the public on Ordinance #1430-11 was **moved** by Councilwoman DiPaola, **seconded** by Councilman Browne and carried.

Jeff Bischoff, 86 Park Avenue was not in favor of the ordinance and discussed the different types, weights and classes of vehicles. He agreed that something needed to be done though. He said that the economy was tough and small businesses were having a tough time. He said that renting commercial space in Bergen County was costly, taxes were high and a lot of people were out of work. He suggested forming a committee next time to take a good look at all aspects of this ordinance. He said Emerson was the 'family town' and included a lot of working class people.

Councilman Rivers said that the reason behind this ordinance was really to protect the people of Emerson. It was not fair to have a business with ten or twelve trucks going in and out every day. It was the Governing Body's goal to figure out a way to balance that.

Mr. Mooney said the crux of the ordinance was to permit only one commercial vehicle in a driveway. Mr. Bischoff opined that he did not think that was going to work. He did not see a problem with having two or three trucks in a driveway if they fit. He noted that this was the way it had been in town for many years. Mr. Mooney said that that did not make it right; they were still violating the laws on the books. Mr. Bischoff replied that it did not violate anything; that was the way it had been in town for many years.

Council President Shaw stated that Mr. Bischoff should agree that operating a business out of your home was a quality of life issue. He pointed out that contractors started early and if a crew was ramping up early in the morning, it presented a problem. Mr. Bischoff said that most people did not have enough of a crew to disturb the neighborhood but acknowledged there were other violators in Emerson that needed to be addressed. Council President Shaw suggested that Mr. Bischoff work with Councilman Lazar on this topic as there needed to be some definition of a commercial vehicle for the purpose of the ordinance.

Walter Wajs, 181 Grand Boulevard discussed the classification of commercial vehicles as it impacted the ordinance. Council President Shaw emphasized they were not trying to be rigid, but there needed to be some level of regulation. Some individuals had pressed the boundaries and there had to be ordinances and guidelines to regulate them. But they did not want to alter peoples' lives.

Kenneth Hoffman, 61 Emwood Drive asked what the Council was trying to do. Mr. Mooney stated that Emerson was the only town in the Pascack Valley that did not have legislate commercial vehicles parking residential driveways. Councilman Lazar said Oradell did not allow any commercial vehicles between 7 p.m. and 7 a.m. in any residential zone and Emerson was just trying to find a happy medium. Councilman Lazar said they were not trying to go after the small businessman; they just wanted something in place so that if there was an incident in the future, they would have something to fall back on.

Walter Fricke, 57 Highland Avenue discussed the classification of commercial vehicles as it related to the proposed ordinance. He said that members of a family in a single home might work for more than one company and have more than one commercial vehicle. He also asked about limits on recreational trailers and boats.

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

☛ **Motion** to close the meeting to comments from the public on Ordinance #1430-11 was **moved** by Councilman Lazar, **seconded** by Councilwoman DiPaola and carried.

Mayor Colina asked for a motion to adopt Ordinance #1430-11 on second reading.

Hearing no motion, the Mayor pronounced it dead.

1431-11 AN ORDINANCE TO AMEND CHAPTER ONE ENTITLED ADMINISTRATIVE LEGISLATION ARTICLE II § 1-15 SCHEDULE OF MINIMUM FINES FOR VIOLATIONS OF THE CODE OF THE BOROUGH OF EMERSON

☞ **Motion** to open the meeting to comments from the public on Ordinance #1431-11 was **moved** by Councilman Lazar, **seconded** by Councilman Browne and carried.

Brian Todd, 207 Palisade Avenue asked for an explanation of the ordinance. Councilman Rivers explained that it related to commuter parking.

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

☞ **Motion** to close the meeting to comments from the public on Ordinance #1431-11 was **moved** by Councilman Browne, **seconded** by Councilman Lazar and carried.

☞ **Motion** to adopt Ordinance #1431-11 on second reading was **moved** by Councilman Browne, **seconded** by Councilman Lazar and carried by roll call vote:

RC: Council members:

YES: Browne, Rivers, DiPaola, Shaw, Garis, Lazar

IX. REPORTS

- Administrator – Mr. Scarpa reported on a Consent Agenda resolution related to the employee 457 Plan. He explained that the law, governed by State Statute, allowed employees to take out loans on their investment and the amendment in this resolution would change the plan to include this option. On other topics, he was looking at ways to improve Wagner Park and had received a grant so they could proceed. An ad was posted for a Library Director and they were working in conjunction with the Trustees to get things straightened out. He mentioned issues with the Library renovation project, including carpeting, shelving, circulation desk and wiring for the BCCLS computers. He noted that they were going to get a better grasp on the financial end of things and see where it would go. To finalize the project, they might have to include money from the bond. Another meeting was scheduled for August 25th. He proposed meeting with Library Board President Bill Panza and the architect to go over issues and come up with cost estimates for things that need to be done to put forth a plan of action to finish the project. He mentioned the lightning strike at Borough Hall that caused about \$10,000 of damage and receiving insurance reimbursement of \$7,500. A maintenance checkup was performed on the lift at Borough Hall. It passed but the inspector suggested looking at replacing it in the near future. The cost for a new lift was in the \$10,000 to \$15,000 range; a real elevator would be \$40,000 to \$50,000. The road work on Park Avenue, Munsey Road and Woodside Avenue was completed as part of the joint road resurfacing project. He noted that although Councilman Lazar had expressed concerns about flooding if Woodside Avenue was paved, the drainage system was working fine. The County provided a truck to allow DPW Superintendent Joe Solimando to do tree work in town. A dumpster would be enclosed at the fire house. Work had started to camera the lines in the area of Vivian Avenue and Park Avenue. Preliminary work indicated there were cracks in the lines and they would have to be lined next year.

- Borough Attorney Scott Mooney stated that Maser Consulting would be discussed in Closed Session.
- Borough Clerk Carol Dray had no report.
- Mayor Council

Councilman Lazar gave the July **Police Department** report. He said that he and Mayor Colina spoke to the owner of the Emerson County Club and asked for help with a practice field for soccer. They would allow the soccer league to practice on the golf course property and he emphasized that this was a gracious and neighborly thing for them to do.

Councilwoman Garis said that the Library was looking to reopen at the end of year. They would be ordering books from the best seller lists which had been put off and were scrambling to get everything done that should have been done already. She was very impressed with the flavor of the meetings –everyone was working together and it was a real positive thing for the future.

Councilman Browne commented on the presentation by Ms. Boyce of the **Environmental Commission**. He and Mr. Scarpa had visited the train station area to see what NJT was responsible for cleaning up and what the Borough could do creatively to make it a better front door for Emerson.

Councilman Rivers gave the July **Fire Department** report. He discussed a business owner on Chestnut Street and had asked Mr. Scarpa to have a meeting with him about his taxes. He said that this owner's taxes on his commercial building had gone up 50% and they needed to have a discussion to find out why that had happened. He said they wanted to make sure they took care of the business owners in town. He commented that a 50% increase seemed pretty excessive and wanted to get some idea why this had happened.

Council President Shaw and Councilwoman DiPaola had no reports.

Mayor Colina reported that the initial meeting of the 9-11 Committee had taken place that evening and they discussed working with the architect on an appropriate design and location of the monument with the piece of steel from the Port Authority. They also wanted to develop a program for Sunday, September 11th. The meeting was productive and well attended with good information flow. They anticipated that the ceremony would take place around 1:30 that Sunday afternoon on September 11.. He appreciated everyone's involvement and input. He also stated that the Library Board of Trustees made the right move on Thursday night.

X. PUBLIC COMMENT

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 Councilwoman DiPaola, **seconded** by Councilwoman Garis and carried.

Thomas Sudano, 231 Pascack Avenue asked about the terms of the Library Director's employment. Mr. Mooney explained that Ms. Fulgione had been an 'at will' employee. Councilwoman Garis said that the Board of Trustees would be working to make sure this situation did not happen again. One trustee had been visiting other libraries and inquiring how they policed the hours of their employees and ran things to get some perspective on how to move forward. Mr. Scarpa said he had distributed a seven page contract to the Trustees with very specific details since they had no formal employment agreement with the former Director. He said that putting a more iron clad contract in place would be a big help.

Mayor Colina said that it would help so much if they could just effectively communicate in a timely manner.

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 Council President Shaw, **seconded** by Councilwoman DiPaola and carried.

XI. RESOLUTIONS ON CONSENT AGENDA NO. 142-11

☛ **Motion** to approve Consent Agenda Resolution #142-11 was **moved** by Councilman Rivers, **seconded** by Council President Shaw and carried by roll call vote.

RC: Council members:

YES: Browne, Rivers, DiPaola, Shaw, Garis, Lazar

Ca 143-11 Approve Bill List

Ca 144-11 Approve M & C Regular Meeting Minutes of June 14 and June 22, 2011

Ca 145-11 Approve Tax Appeal Settlement – 127 Chestnut Avenue, Block 112 Lot 12,
For \$1,826.50 for the 2010 tax year

Ca 146-11 Approve Chapter 159 – Highway Safety Grant for \$4,400.00

Ca 147-11 Approve Chapter 159 – State Recycling Tonnage Grant for \$9,860.14

Ca 148-11 Approve Cancellation of Capital Reserve Balance for \$25,000

Ca 149-11 Approve Service Agreement with AXA Equitable 457(b) Retirement Plan
Document

Ca 150-11 Approval to submit a grant application and execute a grant contract with the
New Jersey Department of Transportation for the Improvements to High Street
Project

Ca 151-11 Approve the admission of a SAGE Municipal Alliance Grant Application for
funding for Governor's Council on Alcohol & Drug Abuse in the amount of
\$20,713.00

Ca 152-11 Approve Renewal of Bergen Municipal Health Benefits Fund

XII. CLOSED EXECUTIVE SESSION - Resolution No. 153-11

☛ **Motion** to go into an executive session to discuss matters exempt from the public as duly
noticed by Resolution No. 153-11 was **moved** by Council President Shaw, **seconded** by
Councilwoman DiPaola and carried by roll call vote.

RC: Council members:

YES: Browne, Rivers, DiPaola, Shaw, Garis, Lazar

#11-8/16-36	Police Captain Interviews	N.J.S.A. 10:4-8
#11-8/16-37	Potential Litigation - Maser Engineering	N.J.S.A. 10:4-7
#11-8/16-38	Litigation – A. Solimando	N.J.S.A. 10:4-7
#11-8/16-39	Personnel-Library	N.J.S.A. 10:4-8

XIII. RECONVENE

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

☛ **Motion** to promote Lieutenant George Buono to Captain of the Emerson Police Department effective September 1st was **moved** by Councilman Lazar, **seconded** by Councilman Rivers and carried by roll call vote.

RC: Council members:

YES: Browne, Rivers, DiPaola, Shaw, Garis, Lazar

XII. ADJOURNMENT

With no other business to address, at the request of Mayor Colina, a motion to adjourn was **moved** by Councilwoman DiPaola, **seconded** by Councilwoman Garis and carried at 11:40 p.m.

Carol Dray, RMC/CMC/CMR
(Proofed 09/19/11)

August 25, 2011