



MINUTES
BOROUGH OF EMERSON
MAYOR AND COUNCIL
November 1st, 2011
7:30 P.M.
Borough Hall-Council Chambers
Emerson, NJ 07630



Mayor Colina called the meeting to order at 7:35 p.m. and identified the emergency exits. The Mayor led the assembled in the salute to the flag as November was being proclaimed National Pancreatic Cancer Month and asked for a moment of silence, good thought and prayer for victims of this disease.

O.P.M.A. Statement

Mayor Colina read the Sunshine Statement announcing that the meeting of November 1, 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 Rivers; Council President Shaw arrived at 8:08 p.m.

ABSENT:

Councilman Lazar

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

III. EXCUSED ABSENCE OF GOVERNING BODY MEMBER

- Councilwoman Garis for absence from Regular Meeting of October 18, 2011
- Councilman Lazar for absence from Regular Meeting of November 1, 2011
- **Motion** to excuse Councilwoman Garis from the Regular Meeting of October 18, 2011 and Councilman Lazar from the Regular Meeting of November 1, 2011 with advanced prior notice pursuant to Ordinance #1425-11 was **moved** by Councilwoman DiPaola, **seconded** by Councilman Rivers and carried.

IV. PROCLAMATIONS & CITATIONS

- Pancreatic Cancer Awareness Month – November 2011
Mayor Colina proclaimed November as National Pancreatic Cancer Awareness Month.

V. APPOINTMENTS/RESIGNATIONS – None

VI. UNFINISHED BUSINESS

- Boswell/Tri-State Discussion - Hillman Park – This item was moved to later in the meeting.
- Revising Police Ordinance – Mr. Scarpa said that he spoke to the Borough Attorney and the Appropriate Authorities had met and made some recommendations to the proposed amending legislation but some other items had come up that required clarification. Therefore, the ordinance was under review again and he expected that it would be ready at the next meeting for formal action.
- Ca 187-11 Opposing Development in Paramus Wetlands – Councilman Browne asked the Council to do the same thing they did in 2007 when they passed the same resolution based on the impact it would have on Paramus and Soldier Hill Road. Ms. Dray advised that it was on the Consent Agenda.

VII. NEW BUSINESS:

The first three items were postponed in anticipation of the arrival of Council President Shaw.

- Request for Qualifications for Borough Professional Services
- Traffic at Ackerman Avenue-East and West
- Proposing Michael Menditto Day
- Draft Resolution in Opposition to Environmentally Destructive Development – Councilman Browne endorsed the draft resolution for development and redevelopment objectives in Emerson claiming that it would set the tone to have it accomplished responsibly with minimal impact to impervious surfaces, the Oradell watershed and C-1 waterways. Councilwoman DiPaola took the position that every action taken by the Land Use Board was done responsibly and thought some of the proposed language overlapped federal law. She framed the reason for bringing the matter up at all was political. Councilman Browne replied that there was nothing political about it. Councilman Rivers opined that since they had only received the document the previous day, it should be tabled to the next meeting. Mayor Colina added that he had spoken with Land Use Board Attorney Chris Martin who had opined that a great deal of the authority does not reside at the Borough level; that state and federal statute had precedent and that the Borough had to be careful not to waive any rights or overstep the boundaries pursuant to those laws. Mr. Martin also cautioned against the implication of race, ethnicity and religion. In conclusion, Mayor Colina asked the Council members to review it and revisit it at the next meeting. Councilman Browne reiterated that it was not political. Councilwoman DiPaola countered that she considered the language redundant because everything was already done responsibly in town and there was no reason at this juncture to bring it up. Councilwoman Garis said that she does not have electricity due to the recent storm and was only just seeing the document for the first time. She noted her support but said that she needed more time to examine the issue.

VIII. INTRODUCTION OF ORDINANCES - None

IX. REPORTS

- Administrator – Mr. Scarpa reported that he would be picking up the 9-11 steel the next day from a hanger at JFK Airport. A couple meetings had taken place regarding the possible Pascack Valley Dispatch Center, a possible joint venture with five other towns. He said that it may or may not save some money; the Borough had committed to putting in \$500 to hire a consultant. An open space grant the Borough received would be used for improvements at the train station. A resolution on the agenda would authorize renting out the snow melter for a fee when not being used by the Borough. Shredding Day was very successful. The Borough was in the process of cleaning up after the storm and he and DPW Superintendent agreed that there was never a storm as bad in terms of damage to trees. He anticipated that it would take weeks to clean up but that the DPW was doing a great job. Approximately 200 homes were still without power.

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.

Karen Browne, 114 Pine Drive asked about storm cleanup and how the town would communicate temporarily easing the regulations about cutting branches to four feet lengths. Mayor Colina said this information would be posted on the website. She also commented on the previously discussed resolution on development and redevelopment in the Borough.

Ms. Dray announced that Council President Shaw arrived at 8:02 p.m.

Jeff Bischoff, 86 Park Avenue spoke about properties he owned in Emerson, one of which he resided in and one he rented out. He commented on the percent increases in taxes between 2010 and 2011. His primary residence went up 17.5% in one year; his residence next door that he owned went up 18.5% in one year. He said he checked with the tax office which confirmed that this information was correct. Councilman Rivers countered that the figures he had were different and showed an increase of less than 4%. Mr. Bischoff maintained that Councilman Rivers had the wrong numbers. Councilman Rivers said that his homes were worth more than double the average home. Mr. Bischoff noted that a 2% cap had been put on tax increases in the State of New Jersey. Council President Shaw questioned if the information Mr. Bischoff had was the correct information. Mr. Bischoff said that the Tax Office provided this information to him on October 25th. Councilman Rivers maintained that he did not think Mr. Bischoff's numbers were correct. Mayor Colina suggested that the numbers be verified and validated with the appropriate person at Borough Hall. Mr. Scarpa explained that the point of reassessment was not to bring in 17% more revenue for the Borough and that was not what happened no matter what Mr. Bischoff claimed. He added that while other properties went down, Mr. Bischoff's happened to go up. (Inaudible due to multiple conversations going on simultaneously). Mr. Scarpa argued that Mr. Bischoff's assessment did not go up. Mayor Colina used his gavel and called for a

time out. Mr. Scarpa continued stating that some home assessments went up, some went down and some stayed the same. He explained that the purpose of a reassessment was not to raise more revenue for the Borough but to adjust the home values due to the decline in overall borough-wide housing values which would help to lessen the number of tax appeals filed. Mayor Colina assured Mr. Bischoff that the Borough would follow up with him. Councilman Rivers concurred adding that he would sit with him the following week and go through everything with him soon.

Mayor Colina reminded the Council that decorum was an important aspect of governing body meetings. He urged everyone to use appropriate titles such as surnames during Public Comment as a means of establishing a standard of decorum and civility that would prevent the meetings from denigrating into shouting matches to the point where the Mayor had to bang the gavel.

Ken Hoffman, 61 Emwood Drive supported the previously discussed environmentally sensitive resolution and commented that it was important to confirm it.

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

Mayor Colina announced that they would backtrack to the Hillman Field discussion.

- Boswell/Tri-State Discussion - Hillman Park – Councilman Rivers updated the Governing Body with the assistance of James Fordham of Boswell Engineering and Bob Buono representing Tri-State Athletic. Councilman Rivers explained that over the course of a year they had met multiple times to discuss the playability of Hillman Field so multiple sports and multiple kids could use the facility consistently and to its fullest objective. The Hillman Field Subcommittee had searched far and wide for alternatives to solve the problem. What they discovered was a product sold by a company called Tri-State. Mr. Buono, from Tri-State, on his own time had taken soil samples and laser elevations of Hillman Field to investigate water runoff, met with the Subcommittee three times, met with Mr. Solimando and Councilman Lazar and they believed that it was a viable solution to the problem that would finally work. Mr. Fordham had attended their last meeting and there was some concern voiced over the process. He continued that the committee had voted unanimously to proceed forward with Tri-State's proposal. He invited Mr. Buono to share his findings and background.

Mr. Buono shared his background in field construction. He stated that his tests indicated that water was not coming off the school field and was constructed as a baseball field that would drain towards the outfield and the drain that was now a problem area. Soil samples taken to a depth of 10 inches found no clay, but did contain silt. He said that would need more drying agent. He added that the field was not healthy and the grass looked thin. He said that an aggressive program would make the field look better after two or three years.

Councilman Rivers said that Tri-State would go down eight inches with the clay product every seven inches on the field. The product was natural and would soak up the water. The field would also be top dressed and seeded with special seed. Councilman Rivers thought this was a great option. All references were extremely positive. In response to questions from Council President Shaw, Mr. Buono detailed the work he would perform on the field. Councilman Rivers discussed past repairs that had not worked and asked that the Borough Engineer review it. Councilwoman DiPaola asked for the engineer's response to the proposal.

Mr. Fordham of Boswell Engineering reported on addressing field conditions. He discussed their recent engineering reports, soil conditions and drainage issues. He stated that he was familiar with the Pro's Choice material as a surface absorption material but had never seen it used in the drill and fill application. He said that he wanted to get more information from his office so they could be involved more in the process. Mr. Scarpa remarked that hundreds of thousands of dollars were already wasted on this field. He added that the grading, soil, sprinklers, tree issues were all done incorrectly by Maser Engineering and they should be held accountable. He emphasized that people should be offended by the amount of tax money wasted on this project and the fact that the taxpayers have to spend more money on it. He added that this project had been screwed up by Maser for five years. Mr. Scarpa said that Maser had let the contractor come in and do whatever they wanted without the proper oversight and thought that the soil sample referred to was from Maser.

Councilman Rivers asked if Mr. Buono was willing to share the information that he had gathered with Mr. Fordham. Mr. Buono said that it had cost him money to perform the work. Mr. Scarpa noted that this new project was over the quote threshold with a QPA on staff and they could not award the job to Mr. Buono automatically. Councilman Rivers recommended that three quotes be solicited. Mr. Scarpa said that they would ask for quotes with Pro Choice as the comparable material.

Mr. Fordham said that drainage was not the only issue; most other issues were soil related. He added that one of the most important items causing issues was grading. He said that he could not stamp a guarantee on the fix that was proposed and that at a minimum he would need to start with some deep borings and a permeability test on the top soil and subsoil.

Ms. Dunican voiced her frustration as she had met with Mr. Fordham and Boswell four weeks ago. At the meeting the previous Friday, Mr. Fordham and Mr. Buono were supposed to speak and that did not happen. She said that they came to the Council meeting and spoke clearly two weeks ago and said that Mr. Scarpa or someone was left responsible for speaking to Boswell Engineering and having them contact Tri-State so that at the current meeting they had the proper information to make a decision. She said that as of now, none of that was done. She emphasized that asking Mr. Fordham to perform these tests would take another two weeks and they were quickly losing their window of opportunity. They had done endless hours of research and all they could do as a committee and now they needed a decision to be made. She said that borings would take perhaps a week and cost another \$5000 while they had core samples that did not indicate clay. She said that they did not need the field to be perfect; they needed it to be playable. If Mr. Buono was guaranteeing a playable field 95% of the time, she was all in on that and did not need a \$200,000 fix. Mr. Fordham apologized for her frustration. He said that he had spoken to Mr. Scarpa and was told to wait for direction from the Council.

Councilman Rivers estimated continued testing to cost \$8000 to \$10,000. If they did that, they would absolutely not have enough money to move forward with repairs. If the Council decided to have the engineers on the project to make it right and get testing done so they knew what they were doing moving forward, that would be it for the year and that would be it for the field next year. He said that they would not disrupt soccer, football, baseball and whatever happened on that field because it was the only field they had.

Councilman Rivers added that there appeared to be a disconnect about directing Boswell Engineering to proceed. When they left their meeting, Councilman Lazar, through the committee, was asked to reach out to Mr. Scarpa who was to reach out to Boswell to have them meet up with Tri-State before the subcommittee's last meeting. That did not happen. He noted that it was now two weeks later and it still had not happened and that Mr. Fordham was directed not to do that until after the meeting. Mr. Scarpa stated that he did not remember Councilman Lazar calling him. Ms. Dunican said that she had also emailed Mr. Scarpa after the meeting and said that they were back to square one. Mr. Scarpa explained that there was no authorization that he recalled from the Council saying to proceed with spending money. Ms. Dunican agreed but insisted that there was a direction for Boswell to speak with Tri-State and that did not happen in two weeks.

Mr. Fordham said that it was mentioned by the committee that the current survey may or may not be accurate. That was why it was brought up that they should issue a proposal for a new survey at a cost of approximately \$6,000. Councilman Rivers said that with the core samples, the cost would be just over \$8,000. Mr. Fordham said that he was not sure a survey was necessary for this fix and would defer to others. Mr. Scarpa said that he believed if he was not mistaken that the survey was an issue; and that Maser used Ken Job's survey probably from 2004. He added that obviously conditions had changed over four years. He said that he did not know if they wanted to use a survey that was going on eight years old and he thought they should do a new one.

Council President Shaw asked how long it would take the engineer to get their work done. Mr. Fordham estimated a survey could probably be done before Thanksgiving and the soil samples well before that. Council President Shaw said that there appeared to be weather related urgency to this process and wanted to hear a definitive opinion by the next meeting. Mr. Scarpa said that there was \$25,000 available; go forward with the survey work and as they got closer they would see. They would need to do a quote process and there would be more money come January. Council President Shaw said that time was important so the field would have some down time. Mr. Fordham also said that they would be dealing with frozen ground and the \$50,000 machine would break. Mr. Buono said that he spent \$250 on the soil samples, the same samples the engineer would take. Mr. Fordham proposed going much deeper for his soil samples.

Councilwoman DiPaola said that she understood Ms. Dunican's frustration but the Governing Body and Mr. Buono were not engineers. The Borough had professional engineers to protect them from getting involved in something that perhaps might not work after spending \$35,000. If they did not have the engineer's okay or some kind of guidance that this would work, she did not know how the Council could approve it.

Councilman Rivers agreed that there were no engineers on the committee and Mr. Buono was not an engineer. He said that engineers go to Mr. Buono to talk about fields and felt pretty good about that. He said that the closest person to an engineer at the meetings was Mr. Solimando who knew what he was talking about. Mr. Solimando had sat through the meetings and met with Mr. Buono several times and said that they needed to do this. He felt that was a pretty good sign. Councilwoman Garis said that Mr. Buono was a specialist in this field and had the credentials which had been checked. She opined that to spend \$8,000 to see if they should use Tri-State as a lot of money when they could just spend \$34,000 to get the job done.

Mayor Colina asked if Mr. Fordham could make a definitive statement after his work was complete as to whether Mr. Buono's plan would work. Mr. Fordham said that if the Council wanted him involved, he needed more information. Council President said that they would have to get two other quotes and would want to vote at the next meeting. He asked Mr. Fordham if he would have a definitive answer as to whether Mr. Buono's proposal would work after these tests. Mr. Fordham said yes. Council President Shaw recommended spending the \$8,000 to get Mr. Fordham's opinion. Mr. Buono said that he had no problem giving Mr. Fordham information about the product but did not feel that he was under any obligation to give him any information that he had paid for out of his own pocket.

Mr. Buono explained that if the project would go out to quote it could be done two ways from his experience. If his detailed information is used for bid specifications and he is paid for the service, he then copyrights the material, gets apid and does not bid on the project. If he doesn't copyright the material and gives it as reference material to be used by the borough or an engineering firm, then he can bid and quote on it. Mr. Scarpa said that the engineer could look at it and tweak it.

Council President Shaw asked if Mr. Buono could meet that week with Mr. Fordham so they could figure out if they needed to spend the \$8,000. Councilman Rivers confirmed the meeting the following Thursday at noon to share information with coordination by Mr. Scarpa and have a determination of whether they were going to move forward with the topography map and soil boring. He said that the Governing Body needed to vote that evening to authorized the funds to be spent if that was the plan of action. He anticipated that they would have a decision from the engineer in three weeks as to whether the plan was the way to go or not and would include the borings, samples and mapping of that area. Mr. Scarpa confirmed that the attendees would be Councilman Rivers by phone, Council President Shaw, Ms. Dunican, Councilman Lazar, Mr. Solimando, Mr. Fordham and Mr. Buono. Mr. Fordham stated that the \$8,000 would not include the drafting of the specifications. The estimate of \$8,000 defines only the estimated cost of soil borings. It could be less if the project would not include a survey; however, an expedited process would also add to the expense.

Ms. Dunican was concerned about the process and had a problem with what was going on. She argued that the Hillman Field Sub-committee had spent a year trying to find a miracle solution and when they had found one it appeared that three, five or eight weeks, maybe a whole year had been wasted because of now it appeared that it would have to go out to bid and there was the potential that all the hours and work they had put in with Mr. Buono; that he would not get the work. Her expectation for that evening was that the recommendation would move forward and maintained the Mr. Buono was the only one who could do the work.

Mr. Mooney reiterated that the obtaining of soil borings samples would have to go out to bid. Ms. Dunican questioned what they would find in the boring samples that they did not already know. Councilman Rivers said that this was what they would discuss in the meeting on Thursday.

Mayor Colina said that he appreciated the efforts of Ms. Dunican and the subcommittee but given the time spent on the subject, he would have hoped that they would be further along. He added that they had to adhere to the law as Mr. Scarpa had pointed out. Based on his understanding, if they did not do this, the Council would not be serving in the best interest of the Borough. He said that Mr. Fordham's recommendations may or may dictate the way the Council votes. Councilman Rivers confirmed that whatever comes out of the meeting on Thursday would hold weight but recommended drafting up bid specs and sending them out in the meantime. If what comes out of the meeting is that everyone agrees they needed to proceed with the money being spent to do testing, then that agreement should dictate to do so. Then in three weeks they would have an answer back and be ready to award the contract and begin. Council President Shaw considered that to be an effective plan and an excellent use of three weeks.

Mr. Mooney recommended that the motion be to authorize an individual to authorize that sum of money based on the outcome of the meeting. Council President Shaw added they should authorize Mr. Scarpa to make the call at the meeting based on the outcome. However, Councilman Browne questioned that procedure and recommended scheduling a Special Meeting.

☛ **Motion** to authorize the Borough Administrator to authorize the expenditure not to exceed \$8,000 for soil and topography mapping of Hillman Field based on the findings and recommendations from the upcoming Thursday meeting should it be determined to go forward with that plan was **moved** by Councilman Rivers, **seconded** by Council President Shaw.

Ms. Dray began the roll call and Councilman Browne asked for clarification. Councilman Rivers explained the motion and asked her if it was okay. Ms. Dray characterized it as unorthodox in her opinion and possibly not the legal. Mr. Mooney said that it was perhaps unorthodox, but it was legal and not a vote by proxy. Mr. Scarpa said that there would be Council involvement on the decision on Thursday too since it was a subcommittee meeting and they would be granting that subcommittee the authorization to make a decision.

Mayor Colina asked Ms. Dray about the requirements for a Special Meeting. Councilwoman Garis said that she would like to do a Thursday meeting. The Governing Body agreed that it was a good idea to arrange a Special Meeting and scheduled it for Thursday, November 3rd at 4:00 p.m. to either agree or disagree with the recommendations.

- Request for Qualifications for Borough Professional Services – Mayor Colina returned to this item and invited Council President Shaw to speak. Council President said that last year RFQ's were solicited for Borough Professionals through the Fair and Open process. He noted that this method was part of the Best Practices checklist and said it was time to solicit RFQs again to determine the qualifications of any professionals in compliance to the checklist and since there were only a few meetings left.

☞ **Motion** to initiate the solicitation of RFQs for all Borough Professionals was **moved** by Councilman Browne, **seconded** by Councilwoman DiPaola and carried by roll call vote.

RC: Council members:

YES: Browne, Rivers, DiPaola, Shaw, Garis

- Traffic at Ackerman Avenue-East and West – Council President Shaw stated that he and Mr. Scarpa were supposed to meet with the County Engineer that day but it was cancelled due to the storm. He explained the traffic east and west of Ackerman Avenue, especially during rush hours, necessitated forcing your vehicle into the intersection or another vehicle extended a courtesy. This situation was similar at Ackerman and Fourth Street. He said that he wanted to talk to the County about putting traffic lights at the corner of Lincoln and Fourth and at the south side of the intersection of Kinderkamack Road and Ackerman Avenue. Mr. Scarpa stated that the County had already agreed to a light at Ackerman Avenue and Kinderkamack Road because that was part of the redevelopment project. He added that the issue was complicated because of the train and not wanting people to stop on the tracks. Council President Shaw said that he would report back after he and Mr. Scarpa met with the County.
- Proposing Michael Menditto Day – Council President Shaw proposed a Michael Menditto Day in Emerson. Mr. Menditto was born and raised in Emerson; his father was a former Mayor and he was the head football coach at Emerson High School. He had taken an administrative job at the school this year, precluding him from continuing as a coach. He was suggesting that Mr. Menditto be acknowledged because he had been the head football coach for 12 years at Emerson High School. He was an amazing contributor to the community and was loved and respected. He was hoping to schedule the event for December 6th.

XI. RESOLUTIONS ON CONSENT AGENDA NO. 184-11

☞ **Motion** to approve Consent Agenda Resolution #184-11 was **moved** by Councilman Rivers, **seconded** by Councilwoman DiPaola and carried by roll call vote.

RC: Council members:

YES: Browne, Rivers, DiPaola, Shaw, Garis

Ca 185-11 Award Fire Department Turn Out Gear Contract to Firefighter One LLC in the amount of \$49,830

Ca 186-11 Approve the rental of the Snow Melter to other municipalities?

Ca 187-11 Opposing Development in Paramus Wetlands

Ca 188-11 Confirm the execution of the agreement with English Paving and the Borough of Westwood as the Lead Agency for the road resurfacing project within the Borough of Emerson

Ca 189-11 Authorize Postage Machine Lease to Pitney Bowes for \$7,322.00 for 51 months

Ca 190-11 Approve Emergency Tax Appeals

Ca 191-11 Rescind Sewer Emergency

Ca 192-11 Approve Transfer of Funds - **PULLED**

XII. CLOSED EXECUTIVE SESSION - Resolution No. 193-11

☛ **Motion** to go into an executive session to discuss matters exempt from the public as duly noticed by Resolution No. 193-11 was **moved** by Councilwoman DiPaola, **seconded** by Councilman Browne and carried by roll call vote.

RC: Council members:

YES: Browne, Rivers, DiPaola, Shaw, Garis

#11-11/01-44	Personnel - Police	N.J.S.A. 10:4-8
#11-11/01-45	Contract Negotiations – DPW	N.J.S.A. 10:4-4

XIII. RECONVENE

☛ **Motion** to reconvene was moved by Councilwoman DiPaola, seconded by Council President Shaw and carried.

XIV. ADJOURNMENT

With no other business to address, at the request of Mayor Colina, a motion to adjourn was **moved** by Councilman Browne, **seconded** by Council President Shaw and carried at 10:37 p.m.

Carol Dray, RMC/CMC/CMR
(Proofed 02/03/12)

November 15, 2011