



MINUTES
BOROUGH OF EMERSON
MAYOR AND COUNCIL
February 4, 2020
7:30 P.M.
Borough Hall-Council Chambers
Emerson, NJ 07630



I. CALL TO ORDER

Mayor DiPaola called the meeting to order and welcomed everyone to the February 4th, 2020 Regular Meeting of the Emerson Governing Body. She said the meeting was being videotaped and could be viewed from a link on the Borough website as well as on Verizon FIOS Channel 36 and Cablevision Channel 77. She read the Sunshine Statement announcing that the meeting of February 4th, 2020 had been adequately noticed and was in compliance with the provisions of the Open Public Meetings Law. Further, the meeting notice was transmitted to the Record and Ridgewood News on December 19th, 2019, posted on the bulletin board in the Borough Hall, Municipal Place, Emerson, NJ 07630 and 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.

II. ROLL CALL

Present: Mayor DiPaola, Councilwoman Argenzia, Councilman Bayley, Councilwoman Dinallo, Councilman Gordon, Council President Hoffman, Councilwoman McGuire

Also present were Borough Administrator Robert Hermansen, Borough Attorney John McCann and Borough Clerk Jane Dietsche.

III. EXCUSED ABSENCE OF GOVERNING BODY MEMBER

Mayor DiPaola announced that no members of the Governing Body were absent from the previous meeting.

IV. PROCLAMATIONS & CITATIONS

- National Heart Month/Wear Red Day – February 7th
- Black History Month
- Support for the Celebration of the 100th Anniversary of Women's Suffrage

V. APPOINTMENTS/RESIGNATIONS

- RESOLUTION No. 53-20 BOROUGH PROFESSIONAL APPOINTMENTS – AWARD PROFESSIONAL SERVICE CONTRACTS FOR ONE YEAR PERIOD USING THE ‘FAIR AND OPEN PROCESS’ in accordance with the ‘New Jersey Local Unit Pay to Play’ Law, Pursuant to N.J.S.A 19:44A-20.4 et seq. “Fair and Open” for Calendar Year 1/1/2020 through 12/31/2020 (Appointment by Mayor on Consent and Advice of Council)

- Resolution No. 53-20 Ratify Selection of Land Use Board Engineer Neglia Engineering

☞ **Motion** to adopt Resolution No. 53-20 Ratify Selection of Land Use Board Engineer Neglia Engineering was **moved** by Councilwoman McGuire, **seconded** by Council President Hoffman and carried by a roll call vote of 6-0:

Roll call:

YES: Bayley, McGuire, Dinallo, Hoffman, Gordon, Argenzia

- **Emerson Volunteer Ambulance Corps**
President Janine Davis; Vice President Kristin Malakas; Treasurer Maureen Howlin; Secretary George Howlin; Captain Justin Mason; 1st Lt. Dan Ardalan, 2nd Lt. Dave Mason and 3rd Lt. Mike Davis

Mayor DiPaola announced the names of the officers of the Emerson Volunteer Ambulance Corps and thanked them for their service.

VI. MINUTES FOR APPROVAL

- Regular and Closed Session Meeting Minutes of January 21, 2020

☞ **Motion** to approve the Regular Meeting Minutes as amended and the Closed Session Meeting Minutes of January 21st, 2020 was **moved** by Councilman Bayley, **seconded** by Councilman Gordon and carried unanimously.

VII. FINANCIAL BUSINESS

- Resolution No. 54-20 Temporary Capital Budget – \$385,935 Dispatch Desk and Firehouse Floor

Mr. Hermansen said that the fire house floor repairs needed to be included in the Temporary Capital Budget because this item needed to be addressed during warmer weather so that the fire trucks could remain outside. He said it was very important to get this project moving in a timely fashion. In addition, the Police dispatch desk was not functioning at proper capacity and needed replacement. It would be convertible when the Borough Hall was renovated or replaced and would have a long shelf life. Councilman Bayley said he appreciated all of Mr. Hermansen’s hard work to help the Fire Department.

☞ **Motion** to adopt Resolution No. 54-20 Temporary Capital Budget was **moved** by Councilman Bayley, **seconded** by Councilwoman Argenzia and carried by a roll call vote of 6-0:

Roll call:

YES: Bayley, McGuire, Dinallo, Hoffman, Gordon, Argenzia

Mayor DiPaola asked for a motion to suspend the order of business to allow Jack Klugman, owner of Accurate Builders and Developers to speak and provide the public with a brief update on the redevelopment of Block 419.

☞ **Motion** to suspend the order of business to allow Jack Klugman, owner of Accurate Builders and Developers to provide an update to the public on redevelopment was **moved** by Councilman Bayley, **seconded** by Councilwoman McGuire and carried unanimously at 7:45 p.m.

Mayor DiPaola thanked Mr. Klugman for coming and asked him for an update, next steps and a project timeline. He noted that there were a couple of tenant issues but they were being dealt with and said that in his opinion, things were moving along nicely. He said they were on the right path due to Mr. Hermansen's help as well as others. He stated that his attorney had submitted a letter to the Borough that day requested that the Borough proceed with condemnation of the Laurel Chinese Restaurant because he was not getting anywhere with them. Mayor DiPaola said that it was a very difficult decision for some of the Councilmembers even though it was in the agreement and they were legally bound to take that vote. She asked if they could negotiate as fairly as possible with Cork and Keg and Laurel Chinese Restaurant so the trigger did not need to be pulled. Mr. Klugman said that was what he stood for. He said it was more than just a numbers game; the businesses needed a place to relocate to and did not want to destroy their businesses. Mr. Klugman said they were not there to hurt them but he also had to protect his invested interests. He said he hoped to settle things nicely but hoped he would get the same reciprocation.

Mayor DiPaola asked for a timeline for the demolition of the apartment building. Mr. Klugman said there was a problem with the wires and a 90% chance they were going to wait until the Cork and Keg and Laurel Chinese Restaurant had closed. He added that he was still waiting for feedback from the Borough on plans submitted at the end of December 2019. Councilman Gordon asked if Mr. Klugman had offered the businesses space in the new building after the project was completed. Mr. Klugman said it would be better if he did not discuss it. Mr. Gordon also asked why Mr. Klugman did not anticipate that Laurel Chinese Restaurant would be a problem when they were asked to condemn the lease of Cork and Keg. Mr. Klugman said that the lease clearly stated that they had the right to end their lease. He stated that the owner of Laurel Chinese Restaurant went to the judge who made a decision that required them to then go to the Appellate Division which would take a long time. Therefore, they were going to take two routes simultaneously – going to the Appellate Division and unfortunately had to force the Governing Body to get involved. Councilwoman McGuire asked Mr. Klugman if they were going to ask for the condemnation to proceed while there was pending litigation. Mr. McCann said they did ask for it and had sent a letter that was going to be discussed that evening in Closed Session. Mr. Klugman said they did ask for it.

Mr. Klugman said he was waiting for plan approval. Mayor DiPaola said they were being reviewed by the Borough's professionals and they would be in touch the following day to discuss.

Mayor DiPaola said the Borough wanted the building to have character and did not want a box downtown. Mr. Klugman said there was no reason they could not have direct communication; in his opinion, it was the only way it would work. Mr. McCann said the Borough was always welcome to have direct communication with the redeveloper but he would need a release from Mr. Klugman's attorneys. Mr. Klugman said he looked forward to direct communication. Mr. Hermansen said he promised to get everyone to work together.

Councilman Gordon asked about DEP reports. Mr. Klugman said that after the buildings were torn down, one or two things had to be done and they were going to do it. Mayor DiPaola asked if they were still working on the offsite affordable housing. Mr. Klugman said they had an agreement with Habitat for Humanity but there was one issue they were still working out.

Mr. Klugman said he was looking forward to getting the project built and he understood the position that the Councilmembers were in. Mr. Klugman said he also wanted to discuss putting in the parking garage before all the buildings were done. Councilwoman McGuire asked if the offsite affordable housing units would be built at the same time as the construction on Block 419. Mr. Klugman responded that Fair Share Housing would build it themselves; they would have a certain number of people put in a certain number of hours of sweat equity and as of now, the redeveloper was not building it. Since he was still in talks with them, he said he did not want to get into any details. He said it would take longer than the Block 419 site would take to build. Councilwoman McGuire said they would just like to know that it was up and standing before they finished. Mr. Klugman said he could not answer that.

Mayor DiPaola said there was a portion of the agreement with the redeveloper where they agreed that in lieu of the Ambulance Corps building, they would provide up to \$500,000 worth of in-kind contributions towards a new emergency services/municipal building as well as, she believed, be the general contractor and that was still something which was still alive. Mr. Klugman said he did not know what she meant by that. Mayor DiPaola said she meant that it did not end on December 31st of last year. Mr. Klugman said that he did not think he ever said that. He added that all he said that was that they would work to figure out some sort of extension for what they had. He said he did not think it should be discussed in public and on his end the agreement said what it said. But he said he would entertain it. Mayor DiPaola said it had been inferred to them that an extension would be available. Mr. Hermansen said he recommended having the attorneys in soon. Mayor DiPaola said the Borough had held up all its obligations and she thought that was the inference; that if the Borough kept up their obligations, they would hold up theirs.

Mr. Klugman said that no one at the dais wanted the development but it was what it was. Mayor DiPaola said it was not that they did not want the development. The majority of the people sitting at the dais did want a change in the Borough. Most of them were upset with the fourth story and the way it came about. They were upset there were going to be so many off site affordable housing units. But they were doing as the lawyers had recommended - they had to follow the agreement because the Borough was bound to it whether they voted for it or not. She said she had voted no to almost everything the prior administration agreed to even before Mr. Klugman was involved so as a Councilwoman, she had been trying to protect the integrity of Emerson's downtown and its small-town feel. Then other people were elected and the trend was that the people being elected embraced the small town feel of the community. She said it was not an antagonistic thing or that they hated it or were trying to stop it in any way. They were doing what they were legally obligated to do and hitting every milestone in order for the project to keep moving. Council President Hoffman said they had been dedicated to working cooperatively per the contract. Mr. Klugman said he respectfully disagreed. Council President Hoffman said they owed it to the people of Emerson to do things carefully; he understood that sometimes it slowed things down but they had an obligation not only to the contract, but to the people of Emerson.

Mr. McCann thanked Mr. Klugman for coming. He stated that from the Borough's perspective and the elected officials' perspective, any time something was passed in the dead of night on the 31st during a change of administration when the election spoke loudly and clearly, the newly elected officials will come in, and based on that fact alone would look at the information carefully and completely. He added that he completely disagreed with Mr. Klugman's statement in terms of the Governing Body's cooperation. He said that Mr. Klugman asked for condemnation and it was part of the process. What he did not like was loose ends. There was an outstanding issue that had been on the table for two months and it was going to be resolved relatively quickly one way or another.

He also noted that he was disappointed that Mr. Klugman's attorneys did not come because it limited his ability to speak and to obtain clear information. Mr. Klugman said he was looking for a relationship with the Borough, not a cat and mouse game. Mr. McCann said the request was a simple one – they wanted to give the Council a complete update but he was stunned and amazed because the response was ambiguous and there was no specific reason why the meeting could not take place but it was based on what Mr. Klugman had just said – that he always wanted to come before the Council and explain. Mr. McCann added that there was currently a mess downtown and these were the things that the Mayor and Council and public were asking them to investigate. He said there was a loose end that the Borough needed to tie up right now and from the Borough's perspective it had been ongoing for several months. They had been patient and had not received an answer and there were things they could do as a Borough to effectuate that because they had to plan as well. Mr. Klugman said the reason that the attorneys did not feel it was right to go into Closed Session was because they were going through negotiations with one of the tenants.

Mr. Klugman left the Council Chambers at the conclusion of the discussion.

VIII. UNFINISHED BUSINESS

- Presentation by Borough Architect Kevin Settembrino – discussion of revised architectural plans for replacement/renovation of Borough Hall – Councilwoman McGuire recused herself from this discussion and departed the Council Chambers.

Kevin and Rita Settembrino reviewed the changes made to the plans for the renovation and/or replacement of Borough Hall. They noted that most changes were internal. For the new building, all Police Department functions had been moved to the first floor. The upper floor would house the Council Chambers and administrative functions. For the second option, renovating and adding on to the current Borough Hall, the changes were mostly to the upper level – reconfiguring spaces to create a better work flow. They noted that the plans captured all requests from the Volunteer Ambulance Corps related to space and height requirements.

The Governing Body discussed the options and Mayor DiPaola read a resolution adopted by the Historic Preservation Committee which stated that the committee believed that the existing Borough Hall had irreplaceable historic value and that the Governing Body should do everything in its power to preserve the existing Borough Hall as a part of its decision-making process regarding the construction of a new municipal facility. Mayor DiPaola asked for the Council's feedback on whether to renovate and add on to the existing building or to demolish and replace it with a new structure. Governing Body consensus was to preserve the current Borough Hall by renovating its interior and adding on to the building.

Mayor DiPaola asked for next steps. Mr. Settembrino said they would craft a proposal for review. They would also meet with all department heads and come up with a more in-depth schematic design. Mayor DiPaola said this would be an ongoing open-door process. They would welcome feedback from the public and said it would be best to set up a subcommittee.

Kevin and Rita Settembrino departed the Council Chambers at 8:50 p.m. Councilwoman McGuire returned to the dais.

☞ **Motion** to form a Subcommittee consisting of Mayor DiPaola, Councilwoman Dinallo, Councilman Gordon and as alternates Councilman Bayley and Councilwoman Argenzia for the purpose of assisting the Borough Architect in guiding the Borough Hall renovation project was **moved** by Councilman Bayley, **seconded** by Councilman Gordon and carried unanimously.

- Update on Palisade Avenue stop signs – Mr. Hermansen had spoken with the Borough Engineer. He was in agreement with Chief Mazzeo who recommended that the crosswalk was probably the most beneficial thing for the first stop sign with a blinking light that would work at peak traffic times. Councilman Bayley asked about installing a blinking light that would be activated by a pedestrian. The Police Chief did not think that the second stop sign made a lot of sense at this point. They could do a traffic study but did not believe there would be enough traffic to warrant a stop sign at that location. Councilman Bayley asked that the curbing be looked at as well.

- Update on firehouse floor – Mr. Hermansen said this had been discussed earlier in the meeting as part of the Capital Ordinance introduction.

IX. NEW BUSINESS

- Discussion of updating Fire Prevention Business, Tent and Cooking Fees 2020 - Mr. Hermansen said Fire Official Rich Silvia had looked at costs and fees compared with other towns and recommended changes. Mayor DiPaola asked the Council to review the fees and provide feedback in anticipation of introducing an ordinance at the next meeting.
- Creating Ordinance/Recodification of Code Book Committee – Mayor DiPaola stated that General Code had provided an editorial and legal analysis of the Borough's code book and asked that a subcommittee be formed to create ordinances and review the recodification process.

☞ **Motion** to form an Ordinance/Recodification Subcommittee consisting of Council President Hoffman and Councilwoman Dinallo with Councilwoman McGuire as an alternate was **moved** by Councilman Bayley, **seconded** by Councilwoman Argenzia and carried unanimously.

X. INTRODUCTION OF ORDINANCES

First Reading:

Mayor DiPaola announced that Ms. Dietsche would read the following ordinances by title and they would be further considered at a Public Hearing to be held on February 18th, 2020 at 7:30 p.m. in the Council Chambers of the Borough Hall, Municipal Place, Emerson, N.J. These 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.

1606-20 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 \$385,935 TO PAY THE COST THEREOF, TO MAKE A DOWN PAYMENT, TO AUTHORIZE THE ISSUANCE OF BONDS TO FINANCE SUCH APPROPRIATION AND TO PROVIDE FOR THE ISSUANCE OF BOND ANTICIPATION NOTES IN ANTICIPATION OF THE ISSUANCE OF SUCH BONDS.

☞ **Motion** to introduce Ordinance 1606-20 on first reading was **moved** by Councilwoman McGuire, **seconded** by Councilman Gordon and carried by a roll call vote of 6-0:

Roll call:

YES: Bayley, McGuire, Dinallo, Hoffman, Gordon, Argenzia

1607-20 AN ORDINANCE TO AMEND CHAPTER 266, ARTICLE II OF THE BOROUGH CODE – TREE PRESERVATION AND WOODLANDS MANAGEMENT

☞ **Motion** to introduce Ordinance 1607-20 on first reading was **moved** by Councilman Hoffman, **seconded** by Councilman Gordon and carried by a roll call vote of 6-0:

Roll call:

YES: Bayley, McGuire, Dinallo, Hoffman, Gordon, Argenzia

XI. ADOPTION OF ORDINANCES

Second Reading and Public Hearing:

1605-20 CAPITAL ORDINANCE OF THE BOROUGH OF EMERSON, IN THE COUNTY OF BERGEN, NEW JERSEY AUTHORIZING THE ACQUISITION OF AN SUV FOR THE POLICE DEPARTMENT AND VEHICLE DIAGNOSTIC EQUIPMENT FOR THE DPW IN, BY AND FOR THE BOROUGH, APPROPRIATING THEREFOR THE SUM OF \$55,000 AND PROVIDING THAT SUCH SUM SO APPROPRIATED SHALL BE RAISED FROM THE BOROUGH'S CAPITAL IMPROVEMENT FUND

☞ **Motion** to open the meeting to comments from the public on Ordinance 1605-20 only was **moved** by Councilwoman McGuire, **seconded** by Council President Hoffman and carried unanimously.

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

☞ **Motion** to close the meeting to comments from the public on Ordinance 1605-20 only was **moved** by Councilwoman McGuire, **seconded** by Council President Hoffman and carried unanimously.

☞ **Motion** to adopt Ordinance 1605-20 on second reading was **moved** by Councilwoman McGuire, **seconded** by Councilman Gordon and carried by a roll call vote of 6-0.

Roll call:

YES: Bayley, McGuire, Dinallo, Hoffman, Gordon, Argenzia

XII. REPORTS

- Borough Administrator Robert Hermansen reported on the following:
 - The Borough had been notified that they had been awarded a matching Open Space grant for Hillman Field backstops.
 - He had spoken to Mayor DiPaola, Councilman Bayley and CFO Lauren Roehrer about potentially enacting an Open Space tax which would be used to preserve historical land, open space property and put money aside for recreational fields in the Borough. In order to save the Borough money, they would need money from somewhere else and would ultimately save money in the long run. It would allow the Borough to keep the look of the town and, when property became available, they would have the ability to purchase it so the Borough was not overbuilt and overdeveloped. He said if the Open Space tax was a half cent, it would raise \$60,000.00 per year and the impact on the average taxpayer would be \$22.00 per year. He noted that it would need to go before the voters in a non-binding referendum question. The Governing Body asked for more information so they could review this proposal in more detail at the next meeting.
 - He had reached out to the County to discuss water issues at Soldier Hill Road in an effort to help homeowners in the vicinity. The County would be coming in to look at helping out.
 - A bus stop had been moved but no crosswalk was in place on Kinderkamack Road. He was reaching out to the County for help.
 - The Borough Engineer was looking into crosswalks at the high school and also on Kinderkamack Road where the redevelopment was planned. He was going to discuss this topic with the County.
 - At the last monthly administrator's meeting he brought up Municipal Court collections. They were looking into a consortium to use a company to collect unpaid fines. It would free up the Court Administrator's time and be a win-win for the Borough because the surcharge would be assessed to each individual, and the municipality would not lose any revenue.
 - A budget presentation would take place in a couple weeks for the public to allow transparency on this process.
 - The Ambulance Corps temporary building was being constructed and would be completed in a week or two.
 - An ordinance regarding driver's license checks was being prepared and would be introduced at an upcoming meeting.

XIII. PUBLIC COMMENT

☞ **Motion** to open the meeting to comments from the public was **moved** by Councilman Gordon, **seconded** by Councilwoman Argenzia and carried unanimously at 9:26 p.m.

Mike Myers, 38 Allison Way said it was a great meeting and he liked the consensus to renovate Borough Hall. He also liked the idea of having an open budget meeting.

Pat Hulburt, 55 Jefferson Avenue said she was happy that Borough Hall would not be knocked down.

Donna Taylor, 109 Grand Boulevard opined on health issues related to 5G technology and asked that it not be permitted in Emerson.

☞ **Motion** to close the meeting to comments from the public was **moved** by Councilwoman McGuire, **seconded** by Councilman Gordon and carried unanimously at 10:04 p.m.

XIV. RESOLUTIONS ON CONSENT AGENDA

☞ **Motion** to approve Consent Agenda Resolutions No. 44-20 through 50-20 was **moved** by Councilman Bayley, **seconded** by Councilwoman McGuire and carried by a roll call vote of 6-0:

Roll call:

YES: Bayley, McGuire, Dinallo, Hoffman, Gordon, Argenzia

CA 55-20	Confirm Richard Silvia as a Salaried Employee as Construction Official/Building Sub-code Official/Fire Official
CA 56-20	Transfer Resolution
CA 57-20	LOSAP – Length of Service Awards Program 2019
CA 58-20	Tax Lien Redemption - B1 422 Lot 18

XV. CLOSED EXECUTIVE SESSION – Resolution No. 59-20

☞ **Motion** to go into an executive session to discuss matters exempt from the public as duly noticed by Resolution No. 59-20 was **moved** by Councilwoman Argenzia, **seconded** by Councilman Gordon and carried by a roll call vote of 6-0:

Roll call:

YES: Bayley, McGuire, Dinallo, Hoffman, Gordon, Argenzia

#20-2/04-07	Potential Litigation – Redevelopment Update	N.J.S.A. 10-4-7
#20-2/04-08	Potential Litigation – Lease Condemnation - Block 419, Lot 6.01	N.J.S.A. 10-4-7

XVI. RECONVENE

The Borough of Emerson reserves the right to return to Open Session and, if appropriate, take formal action.

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

☞ **Motion** to extend the curfew to 11:30 p.m. was **moved** by Councilwoman McGuire, **seconded** by Councilwoman Dinallo and carried by a roll call vote of 4-3:

Roll call:

YES: Bayley, McGuire, Dinallo

NO: Hoffman, Gordon, Argenzia

YES: Mayor DiPaola

☞ **Motion** to return to Closed Session was **moved** by Councilwoman McGuire, **seconded** by Councilman Bayley and carried by a roll call vote of 4-3:

Roll call:

YES: Bayley, McGuire, Dinallo

NO: Hoffman, Gordon, Argenzia

YES: Mayor DiPaola

☞ **Motion** to reconvene was **moved** by Councilwoman McGuire, **seconded** by Councilwoman Argenzia and carried unanimously.

☞ **Motion** to ask Special Counsel Affordable Housing Brian Giblin to review the section of the Developer's Agreement with the Borough as it related to the provision where they will pay up to \$500,000.00 cost towards the new municipal building or renovation including for them to become the contractor of that agreement and based up on his recommendation, to proceed with litigation or not to proceed with litigation was **moved** by Council President Hoffman, **seconded** by Councilwoman McGuire and carried by a roll call vote of 4-2:

Roll call:

YES: McGuire, Dinallo, Hoffman, Gordon

NO: Bayley, Argenzia

XVII. ADJOURNMENT

With no other business to address, at the request of Mayor DiPaola, a motion to adjourn was **moved, seconded** and carried at 11:16 p.m.

Respectfully submitted,

Jane Dietsche, RMC
Borough Clerk