



MINUTES
BOROUGH OF EMERSON
MAYOR AND COUNCIL
February 5, 2019
7:30 P.M.
Borough Hall-Council Chambers
Emerson, NJ 07630



I. CALL TO ORDER

Mayor DiPaola read the Sunshine Statement announcing that the meeting of February 5th, 2019 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 20th, 2018, 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, Councilman Bayley, Councilman Falotico, Councilman Gordon, Councilman Hoffman, Councilman Knoller, Councilwoman McGuire

Also present were 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

There were no proclamations or citations.

V. APPOINTMENTS/RESIGNATION

- Swearing in of Councilwoman Jill McGuire – Mayor DiPaola swore in Councilwoman McGuire in the presence of her family and friends.
- BOROUGH PROFESSIONAL APPOINTMENTS Award Professional Service Contract for a One Year Period using the ‘Fair and Open Process’ in Accordance with the ‘New Jersey Local Unit Pay to Play’ Law, N.J.S.A. 19-44a-20.4 et seq., for the Calendar Year 1/1/19 through 12/31/19 unless otherwise stated.
 - Resolution No. 74-19 Land Use Board Engineer – Neglia Engineering

☞ **Motion** to approve Resolution No. 74-19 appointing Neglia Engineering as the Land Use Board Engineer was **moved** by Councilman Hoffman, **seconded** by Councilwoman McGuire and carried by a roll call vote of 6-0:

RC: Council members:

YES: Bayley, Hoffman, McGuire, Falotico, Knoller, Gordon

- Resolution No. 75-19 Affordable Housing Agent – Borough of Paramus

☞ **Motion** to approve Resolution No. 75-19 appointing the Borough of Paramus as the Affordable Housing Agent was **moved** by Council President Falotico, **seconded** by Councilman Knoller and carried by a roll call vote of 6-0:

RC: Council members:

YES: Bayley, Hoffman, McGuire, Falotico, Knoller, Gordon

- Volunteer Fire Department
 - Appointment of James M. Wexler as a Probationary Member effective immediately

☞ **Motion** to appoint James M. Wexler as a Probationary Member of the Volunteer Fire Department effective immediately was **moved** by Councilman Bayley, **seconded** by Council President Falotico and carried unanimously.

- APPOINTMENT BY MAYOR:

Mayor DiPaola announced the following appointments:

- Land Use Board
 - Alternate member for the unexpired term ending 12/31/19 – Don Pierro
 - Class IV member for the unexpired term ending 12/31/22 – Michael Timmerman
 - Alternate II member for unexpired term ending 12/31/20 – Paul Hulburt
- Historic Preservation Committee
 - Appointment of Phil Mazzo as the Class C member for the unexpired term ending 12/31/20
 - Appointment of Don Pierro as the Class B member for the unexpired term ending 12/31/21
 - Appointment of Christian Triana as the Class C member for the unexpired term ending 12/31/22
 - Removal of Steve Lazarus as Class A member of the HPC for the term ending 12/31/20
 - Appointment of John Varoli as Class A member for the unexpired term ending 12/31/20

VI. MINUTES FOR APPROVAL

- Regular and Closed Session Meeting Minutes of January 15, 2019

☞ **Motion** to approve the Regular and Closed Session Meeting Minutes of January 15, 2019 was **moved** by Council President Falotico, **seconded** by Councilman Knoller and carried unanimously.

VII. FINANCIAL BUSINESS

- Resolution No. 76-19 Authorizing Temporary Capital Budget

☞ **Motion** to approve Resolution No. 76-19 Authorizing Temporary Capital Budget was **moved** by Councilman Knoller, **seconded** by Council President Falotico and carried by a roll call vote of 6-0:

RC: Council members:

YES: Bayley, Hoffman, McGuire, Falotico, Knoller, Gordon

VIII. UNFINISHED BUSINESS

- Distribution of recycling cans and introducing ordinance to set fee schedule – The Governing Body discussed options for distributing 200 recycling cans which the Borough received at no cost from Gaeta Recycling. They also discussed selling additional cans at wholesale cost. Among the options proposed for the free cans were raffling off containers to members of the Senior Club and giving some to the Environmental Commission to support their programs. An ordinance would need to be adopted to sell cans at the Borough's cost. Mayor DiPaola asked that this item be added to the next agenda for further discussion.
- Discussion of purchase of Borough cell phone(s) and/or tablets, Borough-issued email addresses for all members of Boards/Commissions/Committees to ensure personal privacy – The Governing Body discussed electronic communication as it related to the Open Public Records Act and its potential impact on personal privacy. Mr. McCann stated that to ensure privacy from a legal perspective, the best practice was to maintain separate devices so as to separate personal and public communication. Governing Body members considered various options including purchasing cell phones and/or tablets and the costs involved. Mayor DiPaola requested that this item be added to the next agenda for further discussion.
- Discussion of LOSAP contributions for Volunteer Fire Department and Volunteer Ambulance Corps – Councilman Knoller noted that members of the Volunteer Fire Department had requested an increase in the LOSAP payment to \$1,350 from the current contribution of \$1,150 per eligible volunteer. He added that the Borough had budgeted \$1,300 per member for 2018. He noted that there was a need to also look at the requirement for accumulating points to make it more fair. Governing Body consensus was to authorize a raise in the LOSAP payment to \$1,300 for 2018 and 2019 with an increase to \$1,350 in 2020. Mayor DiPaola said that this would bring the amount to the median for the Pascack Valley and showed their appreciation for the members of the Volunteer Ambulance Corps and Volunteer Fire Department. An ordinance would be introduced at the February 19th meeting to provide for this increase.

☞ **Motion** to authorize an increase in LOSAP contributions to \$1300 for 2018 and 2019 and \$1,350 for 2020 was **moved** by Councilman Knoller, **seconded** by Councilman Bayley and carried by a roll call vote of 6-0:

RC: Council members:

YES: Bayley, Hoffman, McGuire, Falotico, Knoller, Gordon

IX. NEW BUSINESS

- Discussion of Recreation Track Program Implementation and Establishing Registration Fees by Ordinance – Chris Pesce, Christina Berens and Arthur Lu came before the Governing Body to discuss the formation of a Recreation Track program which had been unanimously approved by the Recreation Commission. Currently 70 children were interested and they discussed equipment needs, registration fees and fund raising. After discussion of budgetary considerations, they agreed to scale back their equipment requirements and reach out to parents and Emerson Junior/Senior High School to borrow items. The Governing Body thanked them for initiating this program and said an ordinance would be introduced at the next meeting to establish registration fees.
- Shade Tree Oversight – Councilman Hoffman spoke about topics discussed at the January meeting of the Environmental Commission related to the management of Borough trees. He reviewed the reassignment of Shade Tree Commission responsibilities to the Environmental Commission in 2017. The Environmental Commission did not have anyone trained in tree inspection and there was a need to appoint an experienced Shade Tree Inspector to troubleshoot tree management; healthy trees needed to be cared for properly and unhealthy trees required removal. He noted that a lot of municipalities had gotten out of the business of tree oversight in their right of way which represented a large portion of the trees that had to be removed. However it would still be necessary to examine trees on Borough property (added as amended 2/19/19) to eliminate potentially hazards. The Governing Body discussed options including entering into a shared service agreement or having a property maintenance inspector take over a portion of this duty. Councilman Hoffman asked Mr. McCann to review the ordinance because he thought it contradicted itself and asked if the Environmental Commission was advisory or autonomous. Mr. McCann said he would review it further but said it was advisory in terms of laws that needed to be passed and autonomous in terms of its operation. Councilman Hoffman said he would reach out to DPW Superintendent Perry Solimando to get some ideas on how to move forward.
- Vivian Avenue drainage project funding – Gary Ascolese, Borough Engineer for Special Projects, appeared before the Governing Body to discuss the upcoming Vivian Avenue drainage project. The New Jersey Department of Transportation had allocated \$145,000 in grant funding to Emerson and \$185,000 to Westwood. However in order to resolve flooding in the area, a portion of the project in Westwood would require up to an additional \$100,000 to complete. This would necessitate the introduction of a bond ordinance at the next meeting in order to meet the tight timeline to award the contract. It would be necessary to perform drainage improvements not only along the border of Emerson and Westwood but also at James Street and Prospect Avenue so as not to impede the increased flow of water and cause flooding. Mr. Ascolese indicated that the project could be done in stages so that the Borough could apply for grant funding for Phase II; he recommended that the second stage be completed within six months to a year. Governing Body consensus was to introduce a bond ordinance in the amount of \$100,000 but determine if there was an agreement with Westwood before moving forward.

☞ **Motion** to authorize the introduction of a Bond Ordinance in the amount of \$100,000 at the February 19th meeting to fund drainage improvements at James Street and Pershing Avenue in Westwood was **moved** by Councilman Knoller, **seconded** by Council President Falotico and carried by a roll call vote of 6-0:

RC: Council members:

YES: Bayley, Hoffman, McGuire, Falotico, Knoller, Gordon

X. INTRODUCTION OF ORDINANCES

First Reading:

Mayor DiPaola announced that Ms. Dietsche would read the following ordinance by title and it would be further considered at a Public Hearing to be held on February 19, 2019 at 7:30 p.m. in the Council Chambers of the Borough Hall, Municipal Place, Emerson, N.J. and published in the February 8th, 2019 edition of the Ridgewood News. She added that this ordinance was 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.

1581-19 BOND ORDINANCE TO AUTHORIZE THE UNDERTAKING OF STORM DRAINAGE IMPROVEMENTS AT DOGWOOD LANE IN, BY AND FOR THE BOROUGH OF EMERSON, IN THE COUNTY OF BERGEN, STATE OF NEW JERSEY, TO APPROPRIATE THE SUM OF \$240,000 TO PAY THE COST THEREOF, TO MAKE A DOWN PAYMENT, TO APPROPRIATE A FEDERAL GRANT, 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 Bond Ordinance No. 1581-19 on first reading was **moved** by Councilman Knoller, **seconded** by Council President Falotico and carried by a roll call vote of 6-0:

RC: Council members:

YES: Bayley, Hoffman, McGuire, Falotico, Knoller, Gordon

Mayor DiPaola announced that Ordinance 1582-19 was being removed from the agenda and would be introduced at an upcoming meeting.

~~**1582-19** AMENDING CHAPTER 290, ZONING, OF THE CODE OF THE BOROUGH OF EMERSON, IN ORDER TO REVISE THE RC (RETAIL COMMERCIAL) ZONE TO REMOVE DRIVE THRU ESTABLISHMENTS AS CONDITIONAL USES"~~

XI. ADOPTION OF ORDINANCES

Second Reading and Public Hearing:

1580-19 AMENDING CHAPTER 290, ZONING, OF THE CODE OF THE BOROUGH OF EMERSON, IN ORDER TO REVISE THE RC (RETAIL COMMERCIAL) ZONE TO ADD DRIVE-THRU ESTABLISHMENTS AS CONDITIONAL USES

☞ **Motion** to open the meeting to comments from the public on this ordinance only was **moved** by Councilman Gordon, **seconded** by Councilman Knoller and carried at 9:32 p.m.

Fred Madura, 10 Groesbeck Court asked about notification procedures since a resident within 200 feet did not receive a letter. He said this would have a major impact on the quality of life in the Borough.

Mayor DiPaola explained that the intention was to correct an error in noticing and then repeal it so as to no longer permit drive through food related establishments. Mr. McCann said that this ordinance was being reintroduced so as to remove the threat of legal action. To avoid potential legal action the Borough had agreed to fix it so it was done properly. He added that the Governing Body had indicated its intention to introduce an ordinance to repeal drive throughs at the next meeting because of residents' concerns.

Hilda Gonzalez, 314 Kinderkamack Road said she had never been notified and that the Borough Attorney had explained at the time that it did not have to be notified.

Vasant Karkera, 323 Kinderkamack Road opined that the appraised value of his home had decreased between 2014 and 2017 by \$35,000.00 because of the Starbucks and said it was a dangerous area.

Mike Esqueu, 276 Kinderkamack Road asked if a traffic study had been done for Starbucks and the downtown redevelopment project. He opined that the drive through should be removed at Starbucks.

Christine Berens, 2 Hartland Avenue said that Starbucks created pollution and litter in the area and wanted the drive through gone.

Hilda Gonzalez, 314 Kinderkamack Road questioned the notification as it related to Starbucks.

Michael Esqueu, 276 Kinderkamack Road asked if a drive through would be allowed if Starbucks closed and discussed late night deliveries and constant litter in the area.

Bob Petrow opined that this was another outrageous example of big money and power prevailing at the expense of the little guy. He commented on the noise, pollution and garbage from Starbucks.

Dan O'Brien, 38 Palisade Avenue said he was glad that he was not in Councilmembers' shoes He opined that it was a financial decision, not a matter of right and wrong, but rather a matter of money. He hoped the new Governing Body would move things in the right direction.

☞ **Motion** to close the meeting to comments from the public on this ordinance only was **moved** by Councilman Hoffman, **seconded** by Council President Falotico and carried at 10:10 p.m.

☞ **Motion** to adopt Ordinance No. 1580-19 on second reading was **moved** by Council President Falotico, **seconded** by Councilman Knoller and carried by a roll call vote of 6-0:

RC: Council members:

YES: Bayley, Hoffman, McGuire, Falotico, Knoller, Gordon

XII. REPORTS

- Acting Administrator Jane Dietsche thanked department heads including CFO Lauren Roehrer, DPW Superintendent Perry Solimando, Chief Mike Mazzeo, as well as the Governing Body and Borough staff for helping continue administrative duties in the absence of a Borough Administrator.

XIII. PUBLIC COMMENT

☞ **Motion** to open the meeting to comments from the public was **moved** by Council President Falotico, **seconded** by Councilman Knoller and carried at 10:10 p.m.

Dan O'Brien, 38 Palisade Avenue opined on the time and expense he experienced in order to receive an approval from the Land Use Board and questioned the procedure for the approvals for redevelopment at Block 419.

Bob Petrow said he agreed with Mr. O'Brien and opined that he had to jump through hoops when submitting an application. He asked how this could be allowed to proceed and commented that the whole thing stunk.

Pat Hulburt, 55 Jefferson Avenue said she had faith that the new Mayor and Council would make the right decisions and knew what Emerson residents really wanted.

☞ **Motion** to close the meeting to comments from the public was **moved** by Councilman Hoffman, **seconded** by Councilman Knoller and carried at 10:15 p.m.

XIV. RESOLUTIONS ON CONSENT AGENDA NO. 77-19

☞ **Motion** to approve Consent Agenda Resolution No. 77-19 was **moved** by Councilman Hoffman, **seconded** by Council President Falotico and carried by a roll call vote of 6-0:
YES: Bayley, Hoffman, McGuire, Falotico, Knoller, Gordon

CA 78-19	Amend Resolution No. 04-19 Council Liaisons Appointments
CA 79-19	Authorize Amendment to Resolution No. 54-19 Appointing Boswell Engineering for Special Projects for Limited Time Period
CA 80-19	Authorize Budget Transfer
CA 81-19	Award Banking Services Contract to Sussex Bank
CA 82-19	Tax Lien Redemption - 121 Jefferson Avenue (Block 308, Lot 2)
CA 83-19	Authorize Purchase of Permanent Easement to Be Utilized for A Right of Way Easement at 195 Kinderkamack Road in the amount of \$1,100.00
CA 84-19	Amend Resolution No. 42-19: Authorizing the Appointment of DART Computer for a one-year contract extension for Information Technology Services through December 31, 2019
CA 85-19	Resolution Authorizing Not to Exceed Limitations for Boswell Engineering for the NJDOT Main Street Sections 4 & 5 Resurfacing

XV. CLOSED EXECUTIVE SESSION - Resolution No. 86-19

☞ **Motion** to go into an executive session to discuss matters exempt from the public as duly noticed by Resolution No. 86-19 was **moved** by Councilwoman McGuire, **seconded** by Councilman Knoller and carried by a roll call vote of 6-0:

YES: Bayley, Hoffman, McGuire, Falotico, Knoller, Gordon

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| 19-2/05-04 | Personnel: | N.J.S.A. 10:4-8 |
| | a. Borough Administrator Position | |
| 19-2/05-05 | Potential Contract Negotiations | |
| | b. Sale of Borough Property | N.J.S.A. 10:4-7 |
| 19-2/05-06 | Contract Negotiations: | N.J.S.A. 10:4-7 |
| | a. Sprint Clearwire LLC – Cell Tower – lease agreement | |
| | b. School Resource Officer | |
| | c. Arcadia Publishing Co. | |
| | d. Easement 222 Kinderkamack Road | |
| 19-2/05-07 | Personnel: Shade Tree Inspector Position | N.J.S.A. 10:4-8 |

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 meeting curfew to no later than 11:30 p.m. was **moved, seconded** and carried unanimously.

Resolution No. 87-19 Appointing Richard Sheola as Interim Borough Administrator

☞ **Motion** to hire Richard Sheola as the Interim Borough Administrator at the rate of \$85.00 per hour for a three month period for a cost not to exceed \$25,000.00 was **moved** by Councilwoman McGuire, **seconded** by Council President Falotico and carried by a roll call vote of 6-0:

YES: Bayley, Hoffman, McGuire, Falotico, Knoller, Gordon

☞ **Motion** to return to executive session to discuss matters exempt from the public as duly noticed by Resolution No. 86-19 was **moved** by Councilman Hoffman, **seconded** by Council President Falotico and carried unanimously.

☞ **Motion** to reconvene was **moved, seconded** and carried unanimously at 11:30 p.m..

XVII. ADJOURNMENT

With no other business to address, at the request of Mayor DiPaola, a motion to adjourn was **moved** by Councilman Hoffman, **seconded** by Council President Falotico and carried at 11:31 p.m.

Respectfully submitted,

Jane Dietsche, RMC
Borough Clerk