



MINUTES
BOROUGH OF EMERSON
MAYOR AND COUNCIL
May 21, 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 May 21st, 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, Council President Falotico, Councilman Gordon, Councilman Hoffman, Councilman Knoller, Councilwoman McGuire

Also present were Interim Borough Administrator Rich Sheola, Borough Attorney John McCann and Borough Clerk Jane Dietsche.

III. EXCUSED ABSENCE OF GOVERNING BODY MEMBER

- Excuse Councilman Knoller for his absence from the Regular Meeting of May 7, 2019

☞ **Motion** to excuse the absence of Councilman Knoller from the Regular Meeting of May 7th, 2019 was **moved** by Councilman Hoffman, **seconded** by Council President Falotico and carried unanimously.

IV. PROCLAMATIONS & CITATIONS

- Councilwoman McGuire – Bergen County Historic Preservation Award - Historic Leadership
- Erica Frodella – NJSLOM - State Semi Finalist for the Louis Bay 2nd Future Municipal Leaders Scholarship Competition
- Vincent Paino – Winner – Wrestling National Championship, All American

V. APPOINTMENTS/RESIGNATIONS

- APPOINTMENT BY MAYOR
 - Shade Tree Commission
 - Fred Maltzan as a Regular Member for the one-year term ending 12/31/19

Mayor DiPaola announced that she was appointing Fred Maltzan as a Regular Members of the Shade Tree Commission for the initial one-year term ending 12/31/19.

VI. MINUTES FOR APPROVAL

- Regular and Closed Session Minutes of May 7th, 2019

☞ **Motion** to approve the Regular Meeting Minutes as amended and the Closed Session Meeting Minutes of May 7th, 2019 was **moved** by Council President Falotico, **seconded** by Councilman Gordon and carried unanimously.

VII. CORRESPONDENCE

Mayor DiPaola announced that copies of the correspondence were available in the Office of the Municipal Clerk.

- Resolutions from Borough of Dumont, Borough of Closter, Township of River Vale, Borough of Fair Lawn; Re: Opposing the Vegetative Management Response Act
- Resolution from the Borough of Westwood; Re: Authorize bid for 2019 Municipal Road Paving Program for the Pascack Valley Cooperative Pricing System #107-PVCPS
- Resolution from the Borough of Carlstadt; Re: Urging NJ Board of Public Utilities to Require Technology to block robocalls to customers, free of charge, and to enact regulations to prevent robocalls from reaching customers
- Resolutions from Borough of Closter, Township of Rochelle Park, City of Hackensack; Re: Resolution Rejecting Hate
- Resolution from the Borough of Oakland; Re: Oppose Construction of Power Plant
- Email from David Atkinson of Neglia Engineering; Re: BCUA – Potential Engineering Conflict
- Letter from New Jersey State Senate; Re: Resolution in Support of Path Recommendations made by New Jersey Economic and Fiscal Policy Workgroup

VIII. FINANCIAL BUSINESS

- Resolution No. 154-19 Bill List

☞ **Motion** to approve Resolution No. 154-19 Bill List 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

IX. UNFINISHED BUSINESS

☞ **Motion** to switch the order of business was **moved** by Councilman Hoffman, **seconded** by Council President Falotico and carried unanimously.

- Discussion of requested towing ordinance amendments – Mr. Sheola had compared information provided by Bergen Brookside Towing, including State Police towing allowances, to the Borough's existing ordinance. The rates proposed represented a substantial increase from the rates established by ordinance in 2003. He asked for Governing Body guidance in how to move forward. Council consensus was for Mr. Sheola to conduct further research on this topic.
- Use of Bergen County field – The Governing Body discussed a proposed agreement with the County of Bergen to permit Pre-K Soccer to use a field on the Soldier Hill Golf Course. Topics discussed included which field would be used, field conditions, requesting access to four days a week, Monday through Thursday, instead of two days a week, and the need to follow the proper procedures in notifying the Governing Body. Governing Body consensus was for this resolution to be pulled from the Consent Agenda for further discussion at the next meeting.
- Discussion of amending noise ordinance – Mr. Sheola had been conducted a survey of eight surrounding towns and all of them had a 7:00 a.m. start time for construction work; the end time varied from 6:00 p.m. to 8:00 p.m. He noted that noise had no geographic boundary.

☞ **Motion** to open the meeting to comments from the public on this topic only was **moved** by Councilwoman McGuire, **seconded** by Council President Falotico and carried unanimously.

Jim Collis, 16 Crest Road requested that the start time for heavy construction be moved to 8:00 a.m. so as not to disturb residents in the vicinity of Memorial School where extensive construction was scheduled to take place.

Paul Hulburt, 55 Jefferson Avenue said if a construction project was handcuffed by a later start time, it would take longer to complete the work. He opined that it was better for them to get in and get out rather than extending the number of days the work would take place.

☞ **Motion** to close the meeting to comments from the public on this topic only was **moved** by Councilwoman McGuire, **seconded** by Council President Falotico and carried unanimously at 8:23 p.m.

☞ **Motion** to create a subcommittee consisting of Councilman Bayley, Councilman Hoffman and Councilman Gordon to analyze the noise ordinance as it pertained to construction around the schools was **moved** by Council President Falotico, **seconded** by Councilwoman McGuire and carried unanimously.

X. NEW BUSINESS

- **PUBLIC HEARING ON THE SUBMISSION OF A 2019 BERGEN COUNTY TRUST FUND GRANT APPLICATION** - Hillman Park Block 616, Lot 18, 146 Thomas Avenue – Replace two backstops at Hillman Park

☞ **Motion** to open the meeting to a Public Hearing on the submission of a 2019 Bergen County Trust Fund Grant Application for Hillman Park Block 616, Lot 18, 146 Thomas Avenue – Replace two backstops at Hillman Park was **moved** by Council President Falotico, **seconded** by Councilman Knoller and carried at 8:24 p.m.

Seeing no hands, Mayor DiPaola asked for a motion to close the meeting to a Public Hearing on the submission of a 2019 Bergen County Trust Fund Grant Application for Hillman Park Block 616, Lot 18, 146 Thomas Avenue – Replace two backstops at Hillman Park.

☞ **Motion** to close the meeting to a Public Hearing on the Submission of a 2019 Bergen County Trust Fund Grant Application for Hillman Park Block 616, Lot 18, 146 Thomas Avenue – Replace two backstops at Hillman Park was **moved** by Council President Falotico, **seconded** by Councilman Knoller and carried at 8:26 p.m.

Mayor DiPaola announced that the resolution in support of the submission of this grant application was on the Consent Agenda.

- DMV Mobile Office – Mayor DiPaola said the Borough had received a request the New Jersey Division of Motor Vehicles to host a mobile office at Borough Hall in the fall to allow residents the convenience of processing applicable paperwork conveniently. Council consensus was to confirm a date with the DMV for mobile office services.
- Amendments to Chapter 266, Articles I and II of the Borough Code – Tree Preservation and Woodlands Management – Councilman Hoffman explained that this was a follow up discussion related to the reinstatement of the Shade Tree Commission. He stated that Articles I and II needed to be updated to change references of the Environmental Commission to the Shade Tree Commission. Mr. McCann said he would discuss the required changes with Land Use Board Attorney Christopher Martin and revisit this topic at the next meeting.
- Off-trail damage in the Emerson Woods Preserve – Councilman Hoffman noted that bikers were creating trails in the Emerson Woods and removing trees and vegetation. Bridges were being constructed over ditches. Their activities were destructive; trails were multiplying and expanding onto Suez Water property. He estimated that there were currently at least two miles of trails. Environmental Commission Chair Stephanie Clark and Vice Chair Margaret Boyce had been in touch with Suez Water officials about this matter. The Environmental Commission would be meeting to come up a plan that would include all the stakeholders. Councilman Hoffman stated that the Police Department needed to be involved. He proposed that additional signs should be posted at all entry points pertaining to violations of Chapter 200, Article II of the Borough Code. Governing Body consensus was to revisit this topic at the next meeting.

Councilman Bayley asked that access to individuals with handicaps be considered into at least some portion of Emerson Woods. Councilman Hoffman said they would look into this section of the ordinance and revisit the topic at a future meeting.

- Discussion re: Request that the Land Use Board review and make recommendations to the Mayor and Council regarding possible amendments to Chapter 248, Article IV of the Borough Code – The Governing Body discussed an issue that had come up at a recent meeting of the Land Use Board where an application pertaining to a corner lot and requirements that sidewalks border both frontages. Residents had expressed concerns related to increased impervious coverage and the lack of sidewalks on neighboring properties. The Land Use Board was of the opinion that they should be able to make this determination on a case by case basis without having to go to the Governing Body. If there were no sidewalks in the neighborhood and no benefit to installing them, and could in fact be a detriment in terms of impervious coverage, it might be better to leave sidewalks out in some cases. After discussion, Governing Body consensus was to have the Land Use Board make this determination on a case by case basis. The Governing Body requested that the Land Use Board review this item and make a recommendation to the Mayor and Council as to possible changes to Chapter 248, Article IV of the current ordinance.

☞ **Motion** to request that the Land Use Board review Chapter 248, Article IV Curbs and Sidewalks and provide a recommendation to the Council for a possible change in the ordinance for the next meeting was **moved** by Councilman Hoffman, **seconded** by Councilman Bayley and carried unanimously.

- Discussion of NJSLOM convention policy – The Governing Body and Mr. Sheola discussed Borough policies as they related to expenses incurred for hotel, gas, mileage, and meal expenses incurred by Councilmembers and employees attending conventions and classes. Council consensus was for Mr. Sheola to draft a policy for review at the next meeting.

XI. INTRODUCTION OF ORDINANCES

First Reading:

Mayor DiPaola announced that no ordinances were being introduced.

XII. ADOPTION OF ORDINANCES

Second Reading and Public Hearing:

1592-19 BOND ORDINANCE TO AUTHORIZE THE MAKING OF VARIOUS PUBLIC IMPROVEMENTS, THE RECONDITIONING OF A FIRE ENGINE AND THE ACQUISITION OF NEW ADDITIONAL OR REPLACEMENT EQUIPMENT AND MACHINERY, NEW ADDITIONAL FURNISHINGS AND NEW AUTOMOTIVE VEHICLES, INCLUDING ORIGINAL APPARATUS AND EQUIPMENT, IN, BY AND FOR THE BOROUGH OF EMERSON, IN THE COUNTY OF BERGEN, STATE OF NEW JERSEY, TO APPROPRIATE THE SUM OF \$1,043,670 TO PAY THE COST THEREOF, TO APPROPRIATE BOROUGH TRUST FUND MONEYS, 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 open the meeting to comments from the public on this bond ordinance only was **moved** by Councilman Knoller, **seconded** by Council President Falotico and carried at 9:11 p.m.

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

☞ **Motion** to close the meeting to comments from the public on this bond ordinance only was **moved** by Councilman Knoller, **seconded** by Council President Falotico and carried at 9:11 p.m.

☞ **Motion** to adopt Bond Ordinance No. 1592-19 on second 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

XIII. REPORTS

- Mayor and Council

Councilman Gordon gave the monthly report of the Department of Public Works and said the Historic Preservation Committee was changing the glass display case at the library. They planned to have a table at the Chamber of Commerce Car Show and would talk to the Recreation Commission about having a table at the Summer Kickoff. He congratulated Councilwoman McGuire for winning the Bergen County Historic Preservation Award - Historic Leadership.

Councilman Knoller had attended a recent Bergen County Community Development Block Grant meeting. Emerson would receive \$6000 for the Senior Citizen Cognitive Learning Program and \$137,000 for the Continental Woods Drainage Program Phase 4. He noted that after the 2020 Census, the Continental Woods area might no longer be eligible for these grants. He thanked former Old Tappan Borough Administrator Pat O'Brien, Mayor Tom Padilla of Woodcliff Lake and said it was a nice show of towns working together. He concluded by congratulating Councilwoman McGuire on winning the Bergen County Historic Preservation Award – Historic Leadership

Council President Falotico congratulated Councilwoman McGuire on winning the Bergen County Historic Preservation Award – Historic Leadership. He thanked everyone who assisted in obtaining the \$780,000 grant for the Kinderkamack Road Streetscape Improvements including Borough Engineer Special Projects Gary Ascolese, former Borough Administrator Robert Hoffmann, and the prior administration. He had attended the Armenian Home groundbreaking ceremony on April 17th. He had attended the Eric Ayala fundraiser with Mayor DiPaola, Councilwoman McGuire and Councilman Gordon. He also attended a May 6th meeting pertaining to relocating the Volunteer Ambulance Corps and gave their April monthly report. They were cleaning out their building in preparation for their relocation. At a recent meeting of the Library Board of Trustees they announced that they would be applying for a grant to replace their roof. He had spoken to the Borough's Information Technology consultant about upgrading the video security feed at the library.

Councilwoman McGuire said the Recreation Commission was working on the Summer Kickoff scheduled for June 22nd. A softball fundraiser would take place on Saturday, June 1st at the Westwood Community Center. Flag football and cheerleading had their registration kickoff at Franco's. At a recent meeting of the Emerson Chamber of Commerce, they had reviewed applications for a \$1000 scholarship and were preparing for their car show on June 8th at the high school. The Eric Ayala Charity Fundraiser on May 3rd had been very successful and raised \$20,000. The Fire Department had held a beefsteak dinner on May 4th to support their brave volunteers. She had met with Sergeant Rocco Duardo and representatives of Street-Smart New Jersey to discuss a free education project for police, residents and students. Preparations were taking place for the Memorial Day Remembrance Ceremony hosted by the American Legion Post 269. She urged everyone to attend to show their support for veterans and those who gave all.

Councilman Hoffman said the Environmental Commission had celebrated Earth Week with events including an Arbor Day Ceremony and the Emerson Woods Cleanup; they were a huge success. He congratulated Councilwoman McGuire on her award and said it was a nice ceremony; she gave a nice speech and represented Emerson very well.

Councilman Bayley congratulated Councilwoman McGuire and thanked Councilman Knoller for his heavy lifting with the grant award. He had attended a meeting of the Personnel Committee and looked forward to the Stephanie Morgan Memorial Softball Tournament Charity event on June 8th.

Mayor DiPaola noted that Emerson had received a \$780,000 NJDOT grant award to complete Phase II of the Kinderkamack Road Streetscape project and said it would be nice to have the entire streetscape updated. She had attended the Eric Ayala Fundraiser and said it was a great event and had a packed house. She said they did wonderful things for people in the community. She had also attended a Fire Department Beefsteak Fundraiser. She had attended numerous meetings including one with PSE&G related to issues about upgrading gas lines in town; these issues had been properly addressed. The Borough website listed a hotline to report any concerns. In the past week, she had begun planting at the Community Garden. Environmental Commission Chair Stephanie Clark was doing a wonderful job and Kate Stutzel was helping everyone get involved and hosted a meet and greet at the garden. She had attended the Relay for Life event where an inspirational young man made a moving speech about never knowing when your time was up. People should let others know how much they meant to each other. She had also attended a beep-ball game for the visually impaired. The Church of Assumption Carnival had five days of great weather. She had been filling in at the Borough Clerk's office. Bunting had been put up at Borough Hall for the Memorial Day through Labor Day season. A Memorial Day Remembrance Ceremony was scheduled for Monday, May 24th at 11 a.m.

- Interim Borough Administrator Rich Sheola provided a report which is attached hereto to the minutes. In addition, he reported on the following:
 - He had drafted proposed new language to modify the Borough's educational assistance policy. It would work on a 36-month sliding scale. He asked that the Governing Body review it and provide feedback prior to the next meeting.
 - He and the Borough Engineer had inspected the area around the Emerson Train Station to determine a suitable location for handicap parking. The Governing Body asked Mr. Sheola to determine who owned that area and table this item until the next meeting.
 - He discussed the draft Flood Damage ordinance which the NJDEP said had to be changed to allow continued participation in the National Flood Insurance Program.
 - He asked that the Borough reimburse him for a one-day conference scheduled for June 14th which would award him with six continuing education credits at a cost of \$115.00. Governing Body consensus was to agree to this request.

- Borough Clerk Jane Dietsche congratulated Councilwoman McGuire on winning the Bergen County Historic Preservation Award – Historic Leadership and reminded residents that voters in Districts 1, 4 and 5 would now vote at the Senior Center instead of Memorial School.

- Borough Attorney John McCann had no report.

XIV. PUBLIC COMMENT

☞ **Motion** to open the meeting to comments from the public was **moved** by Councilman Hoffman, **seconded** by Councilman Gordon and carried at 9:54 p.m.

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 was **moved** by Council President Falotico, **seconded** by Councilman Knoller and carried at 9:54 p.m.

XV. RESOLUTIONS ON CONSENT AGENDA NO. 155-19

Mayor DiPaola announced that Resolution No. 160-19 was being pulled and moved to an upcoming agenda.

☞ **Motion** to approve Consent Agenda Resolution No. 155-19 without Resolution No. 160-10 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

- CA 156-19 Bergen County Trust Fund Application Municipal Endorsing Resolution – Replace Backstops at Hillman Park
- CA 157-19 Authorization for Block Party on Eagle Drive between Daned Road and Hartland Avenue – Saturday, June 8th from 12:00 p.m. to 10:00 p.m.
- CA 158-19 Authorization for the Rodgers Group to Begin Work on Policies and Procedures for the Emerson Police Department as Outlined in their Proposal in the amount of \$12,500.00
- CA 159-19 Refund of Tax Overpayments (1st & 2nd Quarter 2019)
- ~~CA 160-19~~ Authorize Mayor DiPaola to sign use agreement with Bergen County Soldier Hill Golf Course for front grass area for Recreational Soccer practice use for the period from May 21, 2019 through November 1, 2019 **PULLED**
- CA 161-19 Stephanie Morgan Memorial Fund Charity Softball Tournament – Approval for ABC Social Affair Permit for Beer Garden from 3:00 p.m. to 7:00 p.m. on Saturday, June 7, 2019

XVI. CLOSED EXECUTIVE SESSION - Resolution No. 162-19

☞ **Motion** to go into an executive session to discuss matters exempt from the public as duly noticed by Resolution No. 162-19 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

- 19-5/21-19 Potential Litigation – Architectural Services NJSA 10:4-7
- 19-5/21-20 Potential Litigation – Eren Ozturk
v. Borough of Emerson NJSA 10:4-7
- 19-5/21-21 Potential Litigation Update – Drive-through
Ordinance NJSA 10:4-7

XVII. 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 direct Mr. McCann to address the potential litigation of Eren Ozturk v. Borough of Emerson 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

XVIII. ADJOURNMENT

With no other business to address, at the request of Mayor DiPaola, a motion to adjourn was **moved** by Councilman Knoller, **seconded** by Councilman Gordon and carried at 10:42 p.m.

Respectfully submitted,

Jane Dietsche, RMC
Borough Clerk