



MINUTES  
BOROUGH OF EMERSON  
MAYOR AND COUNCIL  
June 11, 2019  
7:30 P.M.  
Borough Hall-Council Chambers  
Emerson, NJ 07630



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I. CALL TO ORDER

Mayor DiPaola read the Sunshine Statement announcing that the meeting of June 11th, 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 Hoffman, Councilman Knoller, Councilwoman McGuire

Council President Falotico and Councilman Gordon were delayed by a school awards ceremony and arrived during the meeting.

**ABSENT:** Councilman Bayley

Also present were Interim Borough Administrator Rich Sheola, 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

Mayor DiPaola announced that no proclamations or citations were being presented that evening but special plans were being arranged to honor the Group 1 State Champion Cavos Baseball team. Details would follow but there were rumors of a parade taking place. She congratulated the team on their outstanding accomplishment.

V. APPOINTMENTS/RESIGNATIONS

- APPOINTMENT BY MAYOR
  - Historic Preservation Committee
    - Appointment of Billie Wassmann as Class B member for the unexpired term ending 12/31/21
  - Shade Tree Commission
    - Craig Bosch as a Regular Member for the four-year term ending 12/31/22
    - Jessica Fricke as a Regular member for the two-year term ending 12/31/20

Mayor DiPaola announced she was appointing Billie Wassmann as the Class B member of the Historic Preservation Committee for the unexpired term ending 12/31/21. In addition, she appointed two Regular members to the Shade Tree Commission: Craig Bosch for the initial four-year term ending 12/31/22 and Jessica Fricke for the initial two-year term ending 12/31/20.

VI. MINUTES FOR APPROVAL

- Regular and Closed Meeting Minutes of May 21, 2019

☞ **Motion** to approve the Regular Meeting Minutes of May 21st, 2019 as amended was **moved** by Councilman Knoller, **seconded** by Councilman Hoffman and carried unanimously.

☞ **Motion** to approve the Closed Session Meeting Minutes of May 21st, 2019 was **moved** by Councilwoman McGuire, **seconded** by Councilman Knoller and carried unanimously.

VII. FINANCIAL BUSINESS

Mayor DiPaola announced that there was no Financial Business.

VIII. UNFINISHED BUSINESS

- Update on Affordable Housing – Brian Giblin, Special Counsel Affordable Housing, provided a detailed presentation on the history of Affordable Housing/COAH in New Jersey. He also reviewed a memo he had prepared for the Governing Body in the matter of the Borough's application for a Declaratory Judgement. He noted that Judge Padovano had granted the Borough's request for a four-month extension of time until September 25, 2019 to comply with his Final Judgement and Order of Repose. He reviewed the requirements and status of obligations necessary to be in compliance with Third Round COAH obligations. The memo is attached hereto to the minutes.

Mr. Giblin departed the Council Chambers at 8:13 p.m.

Councilman Gordon arrived at approximately 8:14 p.m.

Mayor DiPaola announced that Borough Attorney John McCann had fallen ill and that Alternate Borough Attorney Randy Pearce would be substituting for him for the remainder of the meeting. She requested a short break so that the attorneys could review agenda matters.

☞ **Motion** to adjourn for a short break was **moved** by Councilwoman McGuire, **seconded** by Councilman Hoffman and carried unanimously.

☞ **Motion** to reconvene was moved, seconded and carried unanimously at 8:22 p.m.

Mayor DiPaola welcomed Alternate Borough Attorney Randy Pearce to the dais and noted that he had been appointed at the Reorganization Meeting.

- Discussion of amending noise ordinance – Mayor DiPaola invited Jim Collis, a resident of Crest Road, to speak on this matter before the Council. He requested amending the noise ordinance to change the starting time for heavy construction equipment to 8:00 a.m. instead of 7:00 a.m. The Governing Body discussed whether to amend the ordinance to reflect seasonal changes in the starting time, consistency with other municipalities, the definition of heavy equipment, enforceability issues, the fact that the school upgrades were an isolated project and whether 7:00 a.m. was a reasonable time for construction work to begin.

Council President Falotico arrived at 8:37 p.m.

Mayor DiPaola asked for a motion to open the meeting to comments from the public on this topic only.

☞ **Motion** to open the meeting to comments from the public on this topic only was **moved** by Councilman Knoller, **seconded** by Councilman Gordon and carried at 8:37 p.m.

Brian Downing, 15 Lexington Avenue said the Board of Education was in charge of the project and said they should set time restrictions but the ordinance should not be amended.

Dan O'Brien, 38 Palisade Avenue opined that changing the starting time might impact contractors who reside in town. He said the Board of Education should set times for the construction project.

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

☞ **Motion** to close the meeting to comments from the public on this topic only was **moved** by Councilman Hoffman, **seconded** by Councilman Knoller and carried unanimously.

Mayor DiPaola said they should take a wait and see approach and address issues on a case by case basis. The current start and end time in the ordinance would be strictly enforced.

- Amendments to Chapter 266, Articles I and II of the Borough Code – Tree Preservation and Woodlands Management – Councilman Hoffman explained that due to the re-establishment of the Shade Tree Commission, the language of this chapter required revisions. The Environmental Commission had taken over tree management duties when the Shade Tree Commission had been disbanded. The amendments would change the relevant articles to apply to the Shade Tree Commission as well as add some definitions. Language would also be added to allow the Borough Administrator or DPW Superintendent to address emergent situations. Mr. Sheola said he would prepare this ordinance for introduction on June 25<sup>th</sup>.
- Leasing train station from NJ Transit for use by Historic Preservation Committee – Mr. Sheola had not been able to reach the Regional Manager of New Jersey Transit and would address this item at the June 25<sup>th</sup> meeting.
- Borough Facebook Page – Mayor DiPaola said that launching a Borough Facebook account would make information more visible to residents and the general public who used Facebook and give the Borough a greater presence on social media. Mr. Sheola said he would put a policy and process in place to outline who would maintain and update the account.

☞ **Motion** to launch an official Borough Facebook page to communicate with the public was **moved** by Councilwoman McGuire, **seconded** by Councilman Gordon and carried by a roll call vote of 5-0:

**RC: Council members:**

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

- Commuter parking lot discussion – The Governing Body discussed options to provide commuter parking and consider the expenses involved in constructing a parking lot on Locust Avenue. Cost estimates for a permanent parking lot, including the installation of lighting, a drainage system and paving, would amount to at least \$200,000. Funding for this project was not included in the 2019 budget. Originally a pilot program had been planned for temporary parking with the chosen location consisting of a gravel lot with lighting on adjacent buildings. Mayor DiPaola said the upcoming redevelopment would eliminate commuter parking on Kenneth Street, leaving commuters with limited options - paid reserved parking on Emerson Plaza East and a few commuter spots at the library and Borough Hall. It was an urgent issue that needed to be addressed as quickly as possible. The Governing Body discussed leasing space at Assumption Church or the Emerson Bible Church but noted that this expense had not been budgeted for. The Mayor asked Mr. Sheola to research any options available to create additional commuter parking. Governing Body consensus was for Mr. Sheola to obtain estimates for a temporary parking lot on Locust Avenue or a permanent parking lot. He was also asked to reach out to the churches for a possible agreement to establish some commuter parking on their properties.

- Amending Towing Ordinance – The Governing Body and Mr. Sheola revisited previous discussions related to correspondence received from Bergen Brookside Towing. The letter notified the Borough of legislation enacted by the State of New Jersey which included expanded itemization and increased rates for towing services. Mr. Sheola presented a memo which included the Borough’s current rates compared to several other municipalities. Emerson’s towing fee schedule was last set sixteen years ago and was very low. Governing Body consensus was to set a revised fee schedule and introduce an ordinance at the next meeting that would be effective January 1, 2020.
- Discussion of Drive-Through Ordinance – Councilman Knoller discussed the upcoming second reading of this ordinance and the Governing Body’s acceptance of the recommendations of the Land Use Board in a 3-2 vote at their April 16<sup>th</sup> Regular Meeting. Mayor DiPaola said if Mr. McCann had been there that evening, he would have explained that targeting a single industry was unconstitutional. She stated that his recommendation was to adopt the ordinance as originally written so there would be no constitutional challenges. She explained that if anyone wanted to operate a drive through, they would have the option of going through the Land Use Board. Mr. Pearce recommended that the Governing Body vote to rescind their prior voice vote accepting the Land Use Board’s recommendations before proceeding with the second reading of the ordinance prohibiting drive through establishments in the RC zones.

☞ **Motion** to rescind the prior voice vote adopting the Land Use Board’s recommendations regarding Ordinance 1582-19 was **moved** by Councilwoman McGuire, **seconded** by Councilman Hoffman and carried by a roll call vote of 5-0:

**RC: Council members:**

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

#### IX. NEW BUSINESS

- Discussion of firehouse repairs - estimate from Borough Engineer Dave Atkinson – Mr. Sheola explained that the firehouse had serious structural issues including cracked floors and walls. He recommended that the Governing Body proceed with Mr. Atkinson’s proposal for repairs. The resolution was included on the Consent Agenda.
- Discuss and advertise for PT/FT Borough Administrator position – Councilman Hoffman said that after the resignation of the prior full time Borough Administrator in January of 2019, the Borough had advertised the open position and received a number of resumes. However, no one clearly stood out and no interviews had been conducted by the Personnel Committee. He said Mr. Sheola had done an excellent job as Interim Borough Administrator on a part time basis but there was an obvious need for a full-time employee in this position. He recommended that the Governing Body re-advertise with a time limit and have the Personnel Committee perform the initial interviews. Councilman Knoller agreed that Mr. Sheola had done an amazing job but concurred that they needed a full-time employee. Council President Falotico said that Mr. Sheola’s performance exceeded even some full-time administrators. Mayor DiPaola requested that an advertisement for a full-time administrator be drafted and placed on the New Jersey League of Municipalities website and other venues as quickly as possible so the position could be filled by September or October.

☞ **Motion** to advertise for a full-time Borough Administrator at the earliest possible date was **moved** by Councilman Hoffman, **seconded** by Councilwoman McGuire and carried by a roll call vote of 5-0:

**RC: Council members:**

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

- Summer Kickoff discussion – information tables related to candidates/government officials – Mayor DiPaola stated that Congressman Gottheimer’s office had reached out to the Borough about setting up a table at the Summer Kickoff. The Governing Body discussed whether campaigning by political candidates and visits by representatives at town events was appropriate and whether they should be permitted to set up tables. Mr. Pearce noted that freedom of speech was a basic constitutional issue; if the Borough ran afoul of the law they could be sued. Governing Body consensus was to permit tables only for Borough affiliated organizations and to contact elected officials and candidates to inform them that they would be welcome at the event but tables would not be permitted.

## 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 June 25th, 2019 at 7:30 p.m. in the Council Chambers of the Borough Hall, Municipal Place, Emerson, N.J. and published in the June 14th, 2019 edition of the Ridgewood News. 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.

### **1593-19 AN ORDINANCE TO FIX THE SALARIES, WAGES, COMPENSATION AND OTHER TERMS OF EMPLOYMENT OF CERTAIN EMPLOYEES OF THE BOROUGH OF EMERSON FOR THE CALENDAR YEAR 2019**

Councilman Hoffman requested that the salary range for Shade Tree Inspector be amended from a range of \$3,000 - \$5,000 to \$3,000 - \$7,000 as the higher amount had been allocated in the 2019 Municipal Budget. Council consensus was to agree to this amendment.

☞ **Motion** to introduce Ordinance No. 1593-19 on first reading as amended was **moved** by Council President Falotico, **seconded** by Councilman Knoller and carried by a roll call vote of 5-0:

**RC: Council members:**

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

XI. ADOPTION OF ORDINANCES

**Second Reading and Public Hearing:**

**1582-19** AN ORDINANCE 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

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

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

☞ **Motion** to close the meeting to comments from the public on this ordinance only was **moved** by Council President Falotico, **seconded** by Councilman Knoller and carried unanimously.

☞ **Motion** to adopt Ordinance No. 1582-19 on second reading was **moved** by Councilwoman McGuire, **seconded** by Councilman Hoffman and carried by a roll call vote of 3-2:

**RC: Council members:**

**YES: Hoffman, McGuire, Gordon**

**NO: Falotico, Knoller**

XII. REPORTS

- Borough Administrator Rich Sheola's report is attached hereto to the minutes. He also reported on the following:
    - Construction Official Mike Sartori and Borough Engineer Dave Atkinson had inspected the property at 137 Pine Drive where the resident was experiencing significant flooding. Mr. Sheola noted that the Borough code did not permit residents to discharge water into the street and requested that the homeowner be allowed to do so until a storm drain was installed at that location.
- ☞ **Motion** to allow the homeowner at 137 Pine Drive to discharge water into the street until a storm drain was installed was **moved** by Councilman Knoller, **seconded** by Councilman Gordon and carried by a roll call vote of 5-0:
- RC: Council members:**
- YES: Hoffman, McGuire, Falotico, Knoller, Gordon**
- He had drafted a policy regarding cell phones issued to key Borough employees which met with the recent discussion and recommendations of the Governing Body and requested approval to integrate it into the Personnel Policy.

☞ **Motion** to incorporate the cell phone policy into the Personnel Policy was **moved** by Council President Falotico, **seconded** by Councilman Knoller and carried by a roll call vote of 5-0:

**RC: Council members:**

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

- He had modified the educational assistance policy to reflect the sliding scale based on a 36-month time period and requested that it be incorporated into the Personnel Policy.

☞ **Motion** to incorporate the modified educational assistance policy into the Personnel Policy was **moved** by Council President Falotico, **seconded** by Councilman Knoller and carried by a roll call vote of 5-0:

**RC: Council members:**

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

- He followed up on the proposed policy for reimbursement of expenses at the New Jersey League of Municipalities Convention. After discussion, the Council agreed to limit reimbursement for hotel expenses to the average of the offered rates, with a limit of two nights and a per diem reimbursement of \$40.00 per day for meals, parking and tolls. He would prepare a memo for the next meeting.
- A resolution would be prepared for the next meeting regarding the state road aid application. The deadline was July 19<sup>th</sup> and the Borough would apply to complete Ackerman Avenue and Pascack Avenue.
- He congratulated the Emerson Cavos baseball team on winning the Group 1 State Baseball Championship.

Mayor DiPaola said she wanted to organize a parade in their honor. She would coordinate it with Mr. Sheola and the parents.

☞ **Motion** to hold a parade in honor of the Emerson Cavos baseball team winning the Group 1 State Championship was **moved** by Councilman Knoller, **seconded** by Council President Falotico and carried by a roll call vote of 5-0:

**RC: Council members:**

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

### XIII. PUBLIC COMMENT

☞ **Motion** to open the meeting to comments from the public was **moved** by Councilman Hoffman, **seconded** by Councilman Gordon and carried at 10:26 p.m.

Yeta Bresa, 188 Park Avenue discussed commuter parking issues and opined that the current ordinance was not enforced. She opined that it was very difficult to find parking and that the situation was very frustrating. She wanted certainty that parking would be available.

Dan O'Brien 38 Palisade Avenue quoted Governing Body meeting minutes from 2016 related to redevelopment and questioned the sale of the Ambulance Corps property on Kenneth Avenue to the redeveloper for \$0.00.

Seeing no more 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 Councilman Knoller, **seconded** by Council President Falotico and carried at 10:52 p.m.

XIV. RESOLUTIONS ON CONSENT AGENDA NO. 163-19

☛ **Motion** to approve Consent Agenda Resolution No. 163-19 was **moved** by Council President Falotico, **seconded** by Councilman Knoller and carried by a roll call vote of 5-0:

**RC: Council members:**

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

- CA 164-19 Summer Kick-Off Fireworks Celebration
- CA 165-19 Sonic Suds - Laundry license renewal for one-year period May 1, 2019 through April 30, 2020
- CA 166-19 Approve Cancellation of Grant Balances
- CA 167-19 Annual Appointment of Municipal Representatives to Bergen County Community Development Regional Committees - FY 2019-2020 Covering Period July 1, 2019 through June 30, 2020
- CA 168-19 Appoint Open Space Representatives - FY 2019-2020 Covering Period July 1, 2019 through June 30, 2020
- CA 169-19 Resolution Requesting Approval of Items of Revenue and Appropriation NJS 40a:4-87 in the sum of \$15,722.93 to be appropriated under the caption Clean Communities Grant
- CA 170-19 Change Order #1 Dogwood Lane Drainage Improvements
- CA 171-19 Resolution Authorizing Not to Exceed Limitations for Neglia Engineering for the Emerson Fire Department Garage Floor Repair
- CA 172-19 Resolution Authorizing Joseph Amaral & Sons Landscaping Inc. to maintain 93 Vivian Avenue
- CA 173-19 Resolution Authorizing Joseph Amaral & Sons Landscaping Inc. to maintain 14 Broad Street
- CA 174-19 Approve Cancellation of Contract – Iecony Corp
- CA 175-19 Authorize Mayor DiPaola to Sign Use Agreement with Bergen County Soldier Hill Golf Course Grass Use Agreement
- CA 176-19 Summer Kickoff Approval for ABC Social Affair Permit for beer garden Saturday, June 22, 2019
- CA 177-19 Authorization to Take Appropriate Actions to Amend Community Development Block Grant Funding from Census Area 2 to Census Area 1

- CA 178-19      Liquor License Renewals for the term July 1, 2019 through June 30, 2020:
- Hackensack Golf Club 0214-33-004-002
  - 123 Lincoln dba Cinar Restaurant No. 4 Pocket License 0214-33-001-009
  - KD Liquors LLC - dba Shop Rite Liquors of Emerson 0214-44-007-009
  - Emerson F&B – Emerson Golf Club - Pocket License 0214-33-006-007
  - Scalco Inc. dba Cork & Keg 0214-44-002-003
  - Cheng Investments – dba Emerson Hotel 0214-33-003-005

XV. CLOSED EXECUTIVE SESSION - Resolution No. 179-19

☞ **Motion** to go into an executive session to discuss matters exempt from the public as duly noticed by Resolution No. 179-19 was **moved** by Council President Falotico, **seconded** by Councilman Knoller and carried by a roll call vote of 5-0:

**RC: Council members:**

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

19-6/11-23      Potential Litigation Update – Redevelopment      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** by Councilman Knoller, **seconded** by Councilman Gordon and carried unanimously.

XVII. ADJOURNMENT

With no other business to address, at the request of Mayor DiPaola, a motion to adjourn was **moved** by Council President Falotico, **seconded** by Councilman Knoller and carried at 11:07 p.m.

Respectfully submitted,

Jane Dietsche, RMC  
Borough Clerk