



MINUTES OF THE MAYOR & COUNCIL REGULAR MEETING OF FEBRUARY 9, 2005

The Regular Meeting of the Mayor and Council of the Borough of Atlantic Highlands was held on February 9, 2005 in the public meeting room of Borough Hall, 100 First Avenue, Atlantic Highlands, NJ.

Mayor Donoghue called the meeting to order at 7:30 PM. After a silent prayer and the Pledge of Allegiance, the following roll call was taken: Council members Archibald, Fligor, Ladiana, Nolan and Spatola. Borough Attorney Miller, Borough Engineer Elliott, and Municipal Clerk Harris were also present. Council member Niles was absent.

Mr. Harris stated that notice of this meeting has been transmitted to the Asbury Park Press and the Courier, continuously posted in the Borough Hall on a bulletin board reserved for such announcements, and filed with the Municipal Clerk of Atlantic Highlands, on 1/5/2005. He read the "Open Public Meetings Act" compliance statement and stated that formal action would be taken.

Brian Borri of *Cit-E-Net* made a thirty-minute presentation to demonstrate their municipal website development and e-government solutions.

PUBLIC COMMENT SESSION

John Bollinger-96 Ocean Blvd- was following up on a letter sent to the Governing Body in 2004, where he had done an analysis on the revaluation done in 2003 and particular inequities that are fairly obvious. He noted that individuals involved in the appraisal process might have benefited as well as their neighbors and their blocks in comparison to other blocks. He feels that everyone should take a serious look at it, and if it can be dealt with in Freehold or some other organization to get down to the bottom of this, because if he is correct, the whole process is in a position in which it can be compromised.

Rust Young-Bonnie Brae Path-asked the Borough to explain the process that would grant the Harmon's or any individual, the right to make changes to a public road and to a public land, without notifying those who live next door or around the public land before the resolution can be enacted.

Attorney Miller explained that the proposal had been presented to and discussed by the Council. Members of the Governing Body, the Engineer, and the Director of Public Works had investigated it. The meetings were published and there was a notice provision, but there is no provision to notice prior to the resolution.

Council member Archibald explained that this arose from a lawsuit between the Harmon's the Ruwains and the Borough. He further explained the exact proposal of the Harmon's and the threat of liability on behalf of the Borough.

Mr. Young, seeking clarification, surmised that the first notice that they would have gotten was at the meeting where the resolution was passed. He felt that was a catch 22 because you would have had to be here, that night, to know that the resolution was to be passed, and it seems odd that they would be given the right to put steps in a public road.

Council member Nolan commented that he continually asked about that as was informed that the neighbors "*would be told, not a problem, it would be all right,*" and what we have in front of us is the amended resolution where it says that the neighbors would be told.

Mayor Donoghue asked Mr. Young if he were rising to oppose approval of this.

Mr. Young stated that they would have to get notification of a construction permit, but his fear is that, this is the last step in a long process, and it would probably happen and be approved, and if we would have to oppose this, to slow down that process, then yes we would.

Joseph Hawley-Ocean Blvd-commented that he received a telephone call alleging to him that Mr. Nolan had allegedly forged Congressman Pallone's signature on a letter he believes went to the State, and he would like to know why councilmen are putting names on letters and sending them out?

Council member Nolan responded that the name was not forged.

Council member Archibald commented that some signatures were taken without permission. He further explained that they all agreed to sign one letter in October and he at no time signed the same letter dated January 7th.

Council member Nolan responded that it was the exact same letter, which Council member Archibald refutes this because it has a different date and was going to a different person.

Council member Nolan explained that the original letter was sent to the wrong individual, after he found out who it should have gone to, he sent them that letter.

Mr. Hawley further asked the Mayor if he had appointed a committee of three people to negotiate with the Giuliani family regarding the property on Bay Ave and Ave A.

The Mayor affirmed that he had asked three individuals, Mr. Hoffman, Mr. Eaton and Mr. Boyd to assist, advise and work with him in deciding on the next course in regard to the expressed desire of the Harbor Advisory Committee and others to see what we can do to acquire the Giuliani property, which was discussed last meeting.

Mr. Hawley noted that the Mayor had made a promise that no harbor expansion would proceed without a public referendum.

The Mayor stated that the issue of referendum, or any form of getting approval, will be tackled when we get to the stage where we decide which direction we should go.

Dennis Jaspán- asked if anyone personally knew the Giulianies? He then stated that they would not sell that property to Atlantic Highlands. He asked how much the Harmon agreement would increase the value of his property?

Mr. Archibald mentioned the flip side to that is that the Borough already has received two letters from individuals that have slipped there and the Borough is at risk of a liability.

Council member Spatola, commenting as a realtor, stated she did not feel it would increase the value of his home but it would increase the aesthetics of his home.

Jake Hoffman-45 Navesink Ave- questioned if in fact Harmon does not do this, then the town s going to have to make it safe? The attorney and Mr. Archibald responded no.

Mr. Hoffman stated that we as a town, we are liable to make it safe since we have been made aware of the danger, so if Mr. Harmon doesn't do it and pay for it we will have to do it as a town.

Mayor Donoghue commented that because Mr. Harmon was willing to pay for it, maintain it etc., that it was in the best interest of the town to allow it.

RESOLUTION 027.01-2005, AUTHORIZING THE HARMON AGREEMENT (AMENDED RESOLUTION)

This resolution was offered and moved for adoption by Council member Spatola and seconded by Council member Fligor.

This resolution was adopted by the following vote.

AYES: Council members Fligor, Ladiana, Nolan, and Spatola

NAYS:

ABSTAIN: Archibald

RESOLUTION 38-2005, PAYMENT OF BILLS \$2,339,155.13

This resolution was offered and moved for adoption by Council member Nolan and seconded by Council member Spatola.

Council member Spatola requested that the payment for the Borough attorney's Borough business bill be held from payment and questioned who reviews the bills? The reason is because in Mrs. Miller's retainer, certain items are covered that she feels has been billed to the Borough again. Council member Ladiana noted that Catherine Campbell the CFO was the person that reviews and certifies, so her assumption is that is if she had found anything out of order, she would have known what was billable and what wasn't. Mayor Donoghue questioned and suggested that this be discussed with the attorney. Council member Spatola stated that she did not wish to discuss each item out in public. Attorney

Miller stated that she is available to review these bills at her office and anytime, and her position is she has not billed outside of her agreement. Council member Archibald disagreed with that. Mayor Donoghue felt it was unfair for them to blindside her with this at this time, when she cannot be expected, to be prepared, to go over each and every bill. He thinks the agreement, in her basic salary calls for her action related to up coming meetings, whereas virtually all of those on the list you were provided deal with other activities. Council member Archibald questioned ‘who then is Mr. Open Space? We have a line on this voucher for telephone to open space.’ Attorney Miller stated it probably was a typing error made in her office, and it was probably to the Open Space Program. Attorney Miller again expressed her willingness to sit down with anyone who wishes to go over any item on the bill. Council member Spatola asked to amended the motion to hold back this bill from payment. Council member Fligor suggested that Council members Spatola and Archibald submit a listing of the items they have a question about, hold the bills payment for two weeks and work through this.

Mayor Donoghue asked for a roll call vote to amend the motion and with hold the Borough business portion, of Attorney Millers’ payment, in the amount of approximately \$4925.00.

AYES: Council members Archibald, Fligor, Ladiana, Nolan and Spatola

NAYS:

This resolution was adopted by the following vote.

AYES: Council members Archibald, Fligor, Ladiana, Nolan and Spatola

NAYS:

RESOLUTION 39-2005, AUTHORIZING THE SALE AND ISSUANCE OF BOND ANTICIPATION NOTES

This resolution was offered and moved for adoption by Council member Nolan and seconded by Council member Archibald.

This resolution was adopted by the following vote.

AYES: Council members Archibald, Fligor, Ladiana, Nolan and Spatola

NAYS:

RESOLUTION 40-2005, ADOPTING 2005 TEMPORARY CAPITAL BUDGET

This resolution was offered and moved for adoption by Council member Fligor and seconded by Council member Nolan.

Council members Ladiana and Fligor explained that the clarifier in the Water and Sewer Plant was down and it would cost about \$50,000 but not more than \$65,000 to repair.

This resolution was adopted by the following vote.

AYES: Council members Archibald, Fligor, Ladiana, Nolan and Spatola

NAYS:

Proposed resolution 041-2005 was withdrawn from Council consideration by the request of Police Chief Vasto.

ORDINANCE 04-2005, APPROPRIATING FUNDS FOR IMPROVEMENTS TO THE WATER SYSTEM

This Ordinance was read by title. It was moved for Introduction and First Reading by Council member Ladiana, seconded by Council member Spatola and was approved by the following vote. It shall be published in an official newspaper and a public hearing shall be held on February 23, 2005.

AYES: Council members Archibald, Fligor, Ladiana, Nolan and Spatola

NAYS:

Council member Ladiana made a motion to remove the Approval of the Minutes of January 1st from the table. It was seconded by Council member Nolan and approved by unanimous consent.

Council member Ladiana commented that she had gone to Borough Hall after reviewing her notes and was fine with them [the minutes], but Mr. Archibald had called and said he wanted the amendments made. Council member Archibald commented that the point is, you can't one day say you want the minutes this day, and turn around he next day and say lets redo them.

A motion was made by Council member Fligor to approve the Minutes of January 1st as amended and Council member Spatola seconded it.

Council member Archibald asked if the underlined parts were verbatim. Acting clerk Harris responded yes, those were his words, every single one of them.

This motion was passed by the following roll call vote.

AYES: Council members Archibald, Fligor, Ladiana, Nolan and Spatola

NAYS:

CONSENT AGENDA

- 1) Approval of Minutes: January 12, 2005 Regular Meeting

- 2) Approval of Raffle Licenses 3318-05 & 3319-05, Middletown Village PFA; April 15, 2005, at the Shore Casino, Municipal Harbor, Atlantic Highlands, NJ
- 3) Approval of request from the AH Historical Society

The above items were moved as one motion by Council member Nolan, seconded by Council member Fligor and adopted by the following vote.

AYES: Council members Archibald, Fligor, Ladiana, Nolan and Spatola

NAYS:

ABSTAIN:

A request from the Chamber of Commerce, to have a band set up on First Ave Friday evenings during the month of July, was discussed separately at the request of Council member Spatola.

Council member Spatola feels it is a great idea, but considering how busy First Ave is during the summer time and with the movies, if there might be a safety issue with the venue where the Chamber hopes to set up. If the band is playing, and cars coming and people crossing at the cross walk could be distracted, and wondered if this was a safety issue.

Chief Vasto suggested that there be a Police Officer there to help with traffic and pedestrian crossings.

Mickey Rast offered a more detailed perspective of what the chambered as proposed, commenting that it would not be a ten piece band. It might be just one person, and they would advertise it, and hopefully it will bring people into town.

Mayor Donoghue commented that after the initial evening, if adjustments need to be made due to noise or what ever, they could be done.

Council member Nolan made a motion to approve the Chamber of Commerce request and Council member Fligor seconded that motion.

This motion was passed by the following roll call vote.

AYES: Council members Archibald, Fligor, Ladiana, Nolan and Spatola

NAYS:

The Executive Session minutes for January 26, 2005 were approved by a yes vote by a majority of Council members as indicated by the signatures on those minutes.

REPORTS - COUNCIL MEMBER, COMMITTEE, PROFESSIONAL

Council member Ladiana reminded everyone on Council to review the Capital Road projects submitted by Engineer Elliott and requested feed back from all Council

members. The Bayshore Regional Water Shed Council, chaired by Joe Reynolds of the Environmental Commission, is meeting in Aberdeen tomorrow. They are trying to develop a regional dredge plan. The League of Municipalities budget meeting is tomorrow night at the PNC Arts Center. She attended the Friends of the Library event last night that was very interesting. She commented that at the last meeting we hired a utility collector and she starts next Monday. We are interviewing CFOs who are few and far between. We are interviewing Code Enforcement and Zoning Officers, in between getting the budget nailed down and all of the other things, and we are making progress. She had also commented on some early issues with Jersey Management, and has explained the positive resolutions of those issues.

Council member Fligor reported that he had written a letter to NJNG about Mr. Nolan's letter, and commented that Mr. Nolan had written a letter to NJNG explaining the situation and what had transpired, so he did talk with NJNG and apologized to them for what had happened, and the matter was resolved, and he did take the high road with NJNG. Kramer has been hired by NJNG to do the work between Highway 36 and Highland Ave. They are the same contractors that did the work at Foodtown and should start in mid March. He mentioned that they are not raising the creek because the firemen did not get the permit to raise the grade. He mentioned that the delineation process has ceased due to the snow. He noted that the proposed buyers' attorney, of the Giuliani tract, contacted NJNG stating they would send a letter of request, for the Giuliani's to authorize NJNG to release the results from the testing they [NJNG] did a few years ago.

Council member Nolan reported that the Friends of the Library had a very successful kick-off last night. They are going to help the library raise funds for and awareness of the library. He also noted that they had met with the NJ DOT and various community members, regarding possible planning ideas and the traffic study they are doing in the Harbor. Pictures are available in the Clerks office that reflect the possibilities of what could be done down there. They will set up a web site, we would offer them suggestions as to what changes we would like to see made, they would put together a report and have another meeting that will be open to the public, with new draft boards.

Mayor Donoghue asked Council member Archibald if he had anything to report regarding the mold and leaks here in Borough Hall. Council member Archibald was still waiting to meet with the chief regarding that matter. He then reported that Brian Phair is at the academy. The NJ Chiefs of Police will administer the Sergeants exam on March 24th. The Dept had 916 service calls in January. He then asked the Chief to comment on getting 911 calls when nothing was going on at the residence. The Chief responded that often when home phones, that are battery operated, that's possible when the battery gets low, and sometimes it is a Verizon problem with the outside line.

Council member Spatola reported that the Recreation Committee is sponsoring a bus ride to see the musical "All Shook Up" on Sunday March 13th.

Engineer Elliott reported that she is working on wrapping up the 2004 Capital Road Projects' punch list items. The Stormwater Pollution Prevention Plan and the Stormwater Management Plan is moving along. It has been presented and will be discussed at the Planning Board meeting tomorrow night.

Council member Archibald questioned her as to what is happening on Eerie Rd. She stated that she recommended that the property be vacated and to her knowledge the owner has removed the pool house structure. She spoke to the owner and suggested he hire a Geotechnical engineer to investigate the property and secure it.

He questioned the response from the DOT regarding the First Ave Streetscape. They would not permit us to apply the funds to separate portion for which we did not apply. As long as what is constructed is within what we proposed to do, they will allow that.

PUBLIC COMMENT SESSION

Joseph Hawley-25Ocean Blvd- commented on concerning the laws on Executive session and stated that you could enter into executive session as long as you pass a resolution to do so. Attorney Miller explained that under the law, you could only do that if the issue is an emergency. You are not permitted to just go into executive session if an issue comes up during a meeting.

Jacob Hoffman- mentioned that the Fireworks Committee had its first meeting to kick off this year's firework. They are going to put a presentation together on the 17th and present it to the Chamber and hopefully we can get together and make it a better event than last year.

Mary Wall-79 Ocean Blvd- asked what NJSA 10:4-2 is that printed on the agenda?

Mickey Rast-49 Eight Ave/President of the Chamber of Commerce- the chamber would like to thank the Council for the quarterly insert in the newsletter, and we also have made sure that it was no cost to the Borough. An issue came up and she would like clarification as to whether or not it costs the town money for the Chamber to have this insert in the newsletter.

Acting Clerk Harris explained that the postage paid would be the same if the insert was included or not.

Mayor Donoghue suggested that the insertion process could absorb some of the employees' time and suggested some volunteers to help in that process. Council member Fligor echoed that sentiment and stated that as long as it is not costing the town anything he would have no problems with it.

Mrs. Rast also mentioned that the next Chamber meeting would be on the 17th at the Ocean Club at 7:30am.

She also mentioned that the Chamber has started to look at pricing for the light post banners and would like Council participation in this process. Council member Nolan volunteered to help with this.

Chief Vasto-spoke about turning the lights off along First Ave and asked if it was OK to contact JCP&L to facilitate this. Acting Clerk Harris was asked to contact JCP&L to do this.

Fred Rast-Eight Ave- reported that he has spoken to a major construction company and they are trying to work up a floor plan to see if it is possible to do. They were very receptive to it.

William Phillips- Memorial Parkway- complimented Mr. Rast on his presentation at the last Council meeting. He asked if we have an Ordinance pertaining to snow removal or cars parking on the street during snow removal. There are a lot of houses, 70% have driveways and they are not being used. He would like to know the feeling of giving the Chief a good law, that has some teeth, that would enable him to hook them and tow them. Chief Vasto stated that the law provides that 48 hours, you must move your vehicle; you can't park your vehicle in the same spot for more than 48 hours. When something like this happens, we go around and see cars that haven't been moved because of the snow, they [the Police] go and start knocking on doors. A lot of departments do have flashes on their web sites to have residents move their cars. It is just a matter of educating people that they have to move.

Allan Dean-Second Ave- strongly encourages the council to consider the water main replacement that is included on the 2005 Capital Project list. He questioned what the proposal for the web presentation performed earlier would cost? Council member Nolan reviewed some of the costs outlined in the proposal. Mr. Dean asked if we have prepared an RFP for the Web site. Acting Clerk Harris responded that we did not prepare an RFP and outlined the objectives of what the Municipality is looking for in a Municipal web site. He explained that we would be looking at other providers as well.

Mr. Dean asked about the letter by Mr. Nolan, mentioned earlier in the meeting and questioned if the Mr. Nolan inadvertently or inappropriately take a second letter or the cover of that letter and make a new one or is there anything wrong with what you had done. Council member Nolan explained how he made phone numerous phone calls trying to locate the correct individual, once that was done, he sent the letter explaining this is what we are trying to get to you and need you to respond to. After persistent questioning by Mr. Dean, asking if what the Councilman did was wrong, Council member Nolan responded that it was probably inappropriate but he was merely trying to get the dialogue going that was started three months earlier and it got to somebody and it got a response.

William Phillips-Memorial Parkway- commented that there have been numerous meetings over the past six years where things have been changed. Without having the knowledge and background that he and Council member Spatola have, by being at all of those meetings, a normal person, hearing what Carl heard, would have responded in the same way. It happened, lets get the water under the bridge, lets get the filed raised, lets get the kids playing on the field and lets get the County Trail through there.

Jane Frotton- in dealing with the web site, if taking credit cards online, there is a fee attached to that. Council member Ladiana clarified that what he described was an automatic clearinghouse and they don't charge fees.

Jacob Hoffman- on the snow removal, he questioned the Chief how he felt about people parking on the sidewalk. Code enforcement official, Bernard Frotton explained that the sidewalks are not made to hold cars. They are only 4' thick and driveways are 8" thick and you would start having a lot of cracked sidewalks.

Council member Ladiana questioned alternate side of the street parking. Chief Vasto commented that we can do it, but it is a matter of educating everyone and having an Ordinance to do it.

ADJOURN - There being no further business before the Mayor & Council, Council member Nolan moved to adjourn the meeting at 10:30 PM, the motion was seconded by Council member Fligor and unanimously approved.

The Governing Body approved these minutes at their meeting on March 09, 2005.

Dwayne M. Harris
Acting Municipal Clerk