



MINUTES OF THE MAYOR & COUNCIL REGULAR MEETING OF JANUARY 12, 2005

The Regular Meeting of the Mayor and Council of the Borough of Atlantic Highlands was held on January 12, 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, Niles and Spatola. Borough Attorney Miller, Borough Engineer Elliott and Municipal Clerk Harris were also present. Council member Nolan arrived at 7:35pm. 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.

RESOLUTION 26-2005, APPOINTING BRIAN PHAIR –POLICE OFFICER

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

This resolution was adopted by the following vote.

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

NAYS:

Mayor Donoghue administered the Oath of Office to Brian Phair, who was accompanied by his family members. Chief Vasto presented him with his official Police Badge and he was congratulated by all of the Governing Body members.

Mayor Donoghue called for a five-minute recess.

The Meeting resumed at 7:45pm.

PUBLIC COMMENT SESSION

Allan Dean-Second Ave-commented that last Friday the CFO Catherine Campbell resigned after submitting the preliminary draft of the Municipal Budget to the Finance Committee. He questioned rumors of a dispute between the CFO and Chairwoman Ladiana and asked Council member Ladiana to make a public statement regarding this situation.

Council member Ladiana responded that she had received some e-mails regarding this and clarified that the budgets were not received until Friday, with the packets. There had been no discussions with Catherine on the budget. She reiterated that she and Cathy had a fabulous working relationship and absolutely not, that she and Catherine had any

differences of opinion on the budget, that caused her to resign. She was not at liberty to say anything else to what her reasons were for resigning.

Mr. Dean thanked her for clarifying.

Mayor Donoghue commented that he had spoken to Mrs. Campbell and she had stated that they were strictly personal things and cited no difficulties with her employment at the Borough or anything like that.

Mr. Dean further questioned the practical implications of moving forward with the budget after she leaves on the 21st.

Council member Ladiana commented that we hope to have someone in place by that time. We have already placed ads on the League of Municipalities, the Certified Municipal Officials Web Site and noted the strict requirements to be a CFO, but commented that she has already received one resume. If need be, we may hire someone on a temporary basis and will receive help from the auditor during the transition.

Mr. Dean also questioned the resignation of Sally Sanzone and is aware that the Borough has advertised, and asked if there was anticipation as to when that position would be filled? He also questioned the Code Enforcement Officer resignation and the resignation of Ed Ryan.

Council member Ladiana noted that resumes have been received for all of those positions and they have been adequately covered.

Pat Murray- Asbury Ave- mentioned that she had called Mrs. Campbell to express her remorse at losing her. She asked if there were some remedy the Council could take to keep her, and she assured me that it was definitely personal reasons. And for the record she wanted to state that she did an excellent, excellent job.

Mayor Donoghue announced that the NJ Department of Transportation has awarded the Borough \$300,000.00 for the next phase of the First Ave Streetscape.

Council member Nolan made a motion to remove from the table Resolution 184-2004. It was seconded by council member Ladiana, and passed by unanimous consent.

RESOLUTION 184-2004, CHANGE ORDER FOR MARK WOSZCZAK

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

Council member Fligor noted that Mr. Woszczak bid at \$50,000 some odd dollars. Our next closest bid was \$106,000. Keeping in mind all of the additional repairs made and the additional costs it is still quite a bit less than the next lowest bid.

This resolution was adopted by the following vote.

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

NAYS:

RESOLUTION 21-2005, RELEASE OF MAINTENANCE BOND- LAMBERTO BUILDERS

This resolution was offered and moved for adoption by Council member Niles and seconded by Council member Ladiana.

This resolution was adopted by the following vote.

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

NAYS:

RESOLUTION 22-2005, RELEASE OF PERFORMANCE BOND FOR ATLANTIC SELF STORAGE

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

This resolution was adopted by the following vote.

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

NAYS:

RESOLUTION 23-2005, APPOINTMENTS TO COMMITTEES

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

This resolution was adopted by the following vote.

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

NAYS:

RESOLUTION 24-2005, PAYMENT OF BILLS

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

Council member Niles questioned legal fees to Bernie Reilly totaling \$4,400.00. It was explained that they were bills for when he was the Harbor Attorney. He then questioned \$75.00 for professional seminars, which were actually membership fees.

Council member Fligor questioned a bill for the HVAC system in December for a repair of a hot water valve on the heater, and again suggested investigating a new HVAC system.

This resolution was adopted by the following vote.

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

NAYS:

ORDINANCE 01-2005, SALARY ORDINANCE

This Ordinance was called up for Second Reading and Final Adoption and read by title. A Motion to open the Public Hearing was moved by Council member Niles, seconded by Council member Nolan and unanimously approved.

PUBLIC HEARING

Allan Dean- Second Ave- Asked if the next Code Enforcement Officer would have all of the necessary requirements to conduct a certificate of occupancy inspection. Mayor Donoghue explained that the Personnel Committee would be seeking the most qualified person to recommend to this body. Mr. Dean asked if the position of Deputy Borough Clerk is included in the Salary Guide and asked if the Insurance Coordinator is currently designated the Deputy Municipal Clerk. Mayor Donoghue explained that she has had no formal designation of that title.

Council member Ladiana explained that this is a new salary Ordinance and the minimum salaries have been increased over last years.

Council member Nolan explained that we are trying to get the best-qualified people, and we have to make adjustments to get the best people hired.

Dennis Jaspan recommended that we send the new inspector to school to get certified in fire inspection.

Mary Wall asked who actually interviewed the tax coordinator because she had heard rumor that it did not go through personnel. Council member Ladiana explained that the new Insurance Coordinator was interviewed by the personnel committee and the recommendation was made.

A Motion to close the Public Hearing was moved by Council member Nolan, seconded by Council member Niles,

Council member Fligor questioned if we were raising the construction officials fee. The Mayor explained that there is a proposal to increase the range on the electrical inspector. The previous inspector had resigned and in the course of getting someone else to fill the job, he sought recommendations from the construction official and sources and after discussion with the Personnel committee chairman and other members on the Council, a highly qualified individual, John Quinn, expressed an interest in the job, but in order to secure his services, it was necessary to boost up the salary. These positions are hard to fill and this man's reputation is good. That is why there is an increase there. Council member Ladiana noted that she had made phone calls to individuals in this business and had received quotes in the \$10-12,000 dollar range, so we are actually lower than some of our neighboring communities.

Allan Dean questioned what minor changes had been made since the first reading. Mayor Donoghue explained that the range for the sub code officials would be changed

from 4-6 to 6-8. There is also a \$1,000 increase in the range of the Code Official, which was 6-9 and is now 6-10. There were also some discussion regarding reversed number and transposed numbers.

Mike Rybeck asked if these were all full time positions, and if these were salary caps. Council member Ladiana outlined that they were all part time, and explained that after this Ordinance there will be a Resolution that will fix the specific dollar amount of compensation.

Mayor Donoghue called for the vote on the Motion to close the hearing and it was unanimously approved.

FINAL ADOPTION was moved by Council member Ladiana on the Ordinance as amended, seconded by Council member Nolan and approved by the following vote.

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

NAYS: Council member

RESOLUTION 25-2005, SETTING THE SPECIFIC COMPENSATION OF CERTAIN OFFICIALS AND EMPLOYEES

This resolution was offered and moved for adoption by Council member Ladiana and seconded by Council member Niles.

Council member Archibald commented that he did not believe the Borough should be giving a \$1,000 raise to the construction official because he is a "Good Guy", as described by Mayor Donoghue in a prior email communication. Mayor Donoghue feels that Mr. Archibald is misconstruing what is being said. Council member Archibald mentioned that complaints have been received about inspectors not showing up, he personally had to call an inspector and feels the residents may not be getting the level of service they deserve. Council member Ladiana suggested a dialogue with them to determine how they can improve services in this town. Mayor Donoghue explained that he did not propose this because he was a good guy, however he has been supervising these people for the most part, he feels effectively, and is highly qualified. The fact of the matter is, because of the small town, we find it necessary to have part time officials and I am sure they are doing as good of a job one would expect. These terms end soon so we are not wedded to these numbers for the whole year, or to these people if we choose to make a change.

This resolution was adopted by the following vote.

AYES: Council members Ladiana, Niles, Nolan and Mayor Donoghue

NAYS: Council members Archibald, Fligor and Spatola

RESOLUTION 27-2005, AUTHORIZING AGREEMENT BETWEEN THE BOROUGH AND ANDREA AND MICHAEL HARMON

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

Council member Nolan asked if the neighbors of Mr. Harmon have been informed and are all right with this.

At the request of the Mayor the Attorney explained this proposal so the audience understands what is being discussed.

There was dialogue between council members discussing the detailed elements of the proposal and the situations that initiated the proposal.

Council member Nolan suggested that this resolution be amended to include official notice to his neighbors of the work to be done.

This resolution was adopted by the following vote.

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

NAYS:

ABSTAIN: Council member Archibald

RESOLUTION 28-2005, APPOINTING BERNARD FROTTON ACTING CODE OFFICER

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

Council member Archibald questioned what hours Mr. Frotton will work. The Mayor confirmed that he would work what ever is required to get the job done.

This resolution was adopted by the following vote.

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

NAYS:

The Mayor thanked Mr. Frotton for agreeing to continue on in this capacity.

Mr. Frotton questioned his coverage for liability and legal counsel. Attorney Miller assured him that he would be covered for liabilities as an employee of the Borough. Acting clerk Harris explained that after he had conversation with Mike Avalone from Commerce Insurance, whose position was that actually, Mr. Frotton would be working under contract and should provide the Borough insurance against liability. After explaining the situation Mr. Avalone, after speaking with his superiors, is providing special exception allowing him to be covered under our liability as long as the Council passes a Resolution appointing him as the Acting Code Enforcement officer, making him a sub-official of the Borough therefore offering him coverage under the Borough's Policy. Attorney Miller further clarified that whatever the other sub-code officials receive in terms of Liability coverage, Mr. Frotton will receive.

RESOLUTION 29-2005, GRANT APPLICATION-NY/NJ HARBOR ESTUARY PROGRAM

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

Mayor Donoghue gave a brief explanation that it was a grant application for cost estimates for habitat restoration design at Manymind Creek, Salt Marsh and Fringe Habitat. Council member Fligor further explained that it was for the greenway concept design.

This resolution was adopted by the following vote.

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

NAYS:

RESOLUTION 30-2005, GRANT APPLICATION-NY/NJ HARBOR ESTUARY MINI-GRANT PROGRAM

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

This resolution was adopted by the following vote.

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

NAYS:

RESOLUTION 31-2005, APPOINTING JOHN T. QUINN ELECTRICAL SUB-CODE OFFICIAL

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

This resolution was adopted by the following vote.

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

NAYS:

ORDINANCE 02-2005, AMENDING AND SUPPLEMENTING ORDINANCE 5-97

This Ordinance was read by title. It was moved for Introduction and First Reading by Council member Niles, seconded by Council member Nolan and was approved by the following vote. It shall be published in an official newspaper and a public hearing shall be held on January 26, 2005.

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

NAYS:

ORDINANCE 03-2005, PROVIDING FOR LOCAL ENFORCEMENT OF THE NJ UNIFORM FIRE CODE

This Ordinance was read by title. It was moved for Introduction and First Reading by Council member Fligor, seconded by Council member Nolan and was approved by the following vote. It shall be published in an official newspaper and a public hearing shall be held on January 26, 2005

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

NAYS:

There was a request by Council member Fligor to separate the items in the Consent Agenda.

Motion was made by Council member Ladiana to approve the minutes of December 15, 2004, and it was seconded by Council member Nolan, and was passed by the following vote:

AYES: Council members Archibald, Ladiana, and Nolan

NAYS:

ABSTAIN: Council members Fligor, Niles and Spatola

Motion was made by Council member Fligor to approve Raffle License 2201-05 for St. Agnes Church on March 12, 2005 at the St. Agnes school cafeteria; it was seconded by Council member Niles and passed by a unanimous vote.

REPORTS - COUNCIL MEMBER, COMMITTEE, PROFESSIONAL

Council member Archibald reported that recreation would meet on Thursday January 13 and he will have a report after that.

Council member Spatola reported that the Fireman's Field House roof is leaking and the chairman of that committee should get together with the committee and discuss several on going issues. Council member Nolan mentioned that there has always been a roof problem there and she should touch base with Adam Hubeny, who had gotten estimates to repair it a few years ago.

Council member Niles mentioned the Planning Board would be meeting tomorrow. He also met with the Chief of Police regarding the mold situation and he will be meeting with the Finance Committee to put something in the budget to do something to prevent the problem from getting larger than it is.

Council member Nolan reported the Firemen would be sending out their truck to be re-chassis in Missouri next week. We are waiting on the reports from the work that was done on the Fireman's Field regarding the drainage. The Firemen need someone to come and look at their computers. Acting clerk Harris noted, that was done and they are waiting for the return of some parts.

Council member Fligor reported that no one was happy with the Holiday lights and if we could form a committee that would address that. Council member Ladiana commented that the Arts Council was asking to assume the responsibilities of the Holiday decorating and have received proposals.

NJNG will have a February to March start date before they can begin working on the creek between 36 and Highland.

Mayor Donoghue asked about the leaking Bayshore Authority main below Henry Hudson Springs. Outfall Authority directors state it is not their main, that it is coming down from the hill from somewhere and bubbling up at that point. Mr. Fligor recommended that we have the engineer look at it to determine what and who's the problem is. The wells on the ball field will be monitored at the end of the month, which is a responsibility of NJNG to determine if any further contaminations shows up. The delineation north of Highland Ave is still ongoing. Council member Fligor had further items he would like to address in executive session. He mentioned that the group Friends of the Library is doing some fundraising work for the Library and they are out searching for potential locations. Council member Nolan mentioned that the libraries circulation of materials has gone from 19,000 in 2000 to almost 35,000 this year.

Council member Ladiana reported that the Personnel committee has several meetings scheduled for tomorrow regarding personnel issues. She would also like to schedule a regular meeting of this committee for the third Tuesday of every month and suggests that all committees do the same. Council member Archibald questioned her regarding the sign in sheet for the employees at Borough Hall and wanted to know what the penalties are if someone does not sign in. The Mayor commented that it could be construed as defiance but he does not imagine we would have anything like that. Council member Ladiana explained the reasoning behind the sheet. Council member Archibald questioned as to whether or not we will be getting a time clock, because as he reads it, it is mandatory but there is no stick here. Council member Fligor noted that if you are utilizing it to monitor people's time for payroll, you need a time clock. If you are keeping track of who is in the building for emergency purposes, then everyone that walks in the building needs to sign in and out.

Council member Ladiana mentioned that the Borough's policies have not been reviewed since 1998 and as chair of the personnel committee will review those policies this year, and if they determine that it is an inappropriate policy, they will adjust it accordingly.

She continued her reports noting that the Harbor had a smooth reorganization meeting last week, appointing Helen Marchetti as the new Chairman. Jake Hoffman is the vice-chair, Michael DuPont is the attorney and Birdsall will be the engineer. She acknowledged the receipt of the Green Acres Program letter and encouraged every council member to email her with ideas on applications, and would like feedback from everyone on Council. Regional Stormwater Management will be meeting next Thursday and the Municipal Stormwater management committee met the first week of January and they are well on their way.

Attorney Miller commented that at the reorganization meeting Council members Archibald, Fligor and Spatola criticized her for having higher fees in 2004 than the previous attorney in 2003, yet no one asked her why. She explained that her base salary and hourly rate are exactly the same as the prior attorney. Her fees were higher because there was more work done for the Borough. This fact went unchallenged by anyone. The problem was the people commenting were uneducated as to what happened and she outlined many issues she handled on behalf of the Borough and the time involved,

- *Geday*-the case was dormant until she became the attorney
- *Sip & Dip*-challenged the Steep Slope Ordinance and was dormant in 2003
- *Dewis and Ruwaine* – was dormant in 2003 and was subsequently dismissed
- *Palmar Construction*- nothing was done to pursue this until she was appointed
- *Green Acres*- improperly filed documents from 2001 and 2002 she had corrected and completed
- *Stormwater Pollution Prevention Management Plan*- working on documentation and the Ordinance
- *Open Space Program*- deeds of easement need to be submitted to the County to complete
- *Tax Appeals*- In a normal year there are 10-15 appeals in 2004 there were close to 70 appeals
- *Conflicting Interests/Gate Cottage/ In-Rem tax Foreclosure*- on a few matters an alternate attorney had to be hired to handle these matters
- *Atl. Highlands/Highlands Interlocal Loan Agreement*- will finally be completed.

Council member Archibald commented that Mrs. Miller is way out of line, she is the Borough Attorney and you don't attack Council members, she is making a partisan attack and she is unprofessional and out of line.

Engineer Elliott reported that in addition to everything else mentioned, she is meeting with Robert Dougherty to review the preliminary list of projects for consideration for the 2005 Capital Improvements projects and hopes to have a preliminary list for review prior

to the next meeting. The DOT confusion with the bicycle trail width has been referred to higher authorities and will keep everyone posted.

Council member Archibald commented that it was unfortunate that we are losing Mrs. Campbell, she was a fantastic employee, she has been great and it is a big blow for the Borough, but his question was regarding the Water Collector and he questioned how, when four Council members have requested to refer this issue to committee, how can the Mayor right a letter of acceptance when four people said they want to refer this to committee. Attorney Miller explained that the Mayor is the Chief executive office of this Borough and Mayor Donoghue further mentioned that in fact one of those four members changed his mind. He conferred with all of you and agreed to accept the resignation.

Council member Nolan made a motion, with regret, to accept the resignations of Sally Sanzone and Catherine Campbell; Council member Niles seconded it. It was passed by the following roll call vote.

AYES: Council member Archibald, Fligor, Ladiana, Nolan, Niles and Spatola

Each member expressed their personal regrets at losing two fine employees.

PUBLIC COMMENT SESSION

William Phillips-Memorial Pkwy-questioned Council member Fligor if it was raw or treated sewerage he was referring to in his report. Council member Fligor said it was treated. Mr. Phillips contends that if it is treated it has to be the Bayshore line; all of ours would be raw sewerage. Mr. Fligor stated that the Authority inspected all of their lines and they were all fine. Mayor Donoghue suggested that the Engineer and Mr. Dougherty take a look at it and see. He also expressed his appreciation to Bernie Frotton for all he has done for the Borough during his tenure.

Pat Murray-Asbury Ave- would like the Police Committee to consider marking Lincoln Ave with a left turn only lane and a right turn/straight only lane, because it is too congested and it backs up. She would also like to see a drop off zone on Washington Ave.

Dennis Jaspán- commented that the field house roof is old and about 7 or 8 years ago they discussed an A-frame for it. He asked if the Borough was going to do any work to clean out the drainage ditch by the Harmon property, and if while he is doing this work, if someone gets hurt is the Borough responsible. Attorney Miller explained that Mr. Harmon will be cleaning the drainage as part of his project and he has signed a Hold Harmless agreement that covers the Borough from any liability from everything from the shovel and maintenance in perpetuity. Mr. Jaspán also discussed engineering fees and suggested a standard billing system for engineering fees. Mr. Archibald clarified that the

agreements made with Mr. Jaspan in the past were to apply caps to his fees and he was uncertain if they could do what he was suggesting.

Jane Frotton- would like someone to consider replacing the water fountain in Borough Hall.

Jimmy Pasaro-13 Navesink Ave-questioned the drain on Highland Place and what was being done to it. Engineer Elliott stated she has no plans regarding the drain but the associated project hopefully will be approved for this year's budget.

Joseph Hawley-Ocean Blvd- agreed with the appointment of Brian Phair as a Police Officer and recommend that the Council gives priority to local people when filling positions because they are the best ones to work for this Borough. He also asked that Pat Phair be recognized for her 22 years of service on the Planning Board. He also questioned whose appointment the prior code enforcement officers was, and the Mayor clarified that it was his appointment but he asks the personnel committee to take under consideration the resumes and make recommendations, and they have agreed to do that.

Paul Barbado-Lawrie Rd-again thanked the town for paving the road, but he is bringing up an issue regarding discharged water from a washing machine, being pumped out, illegally by his neighbor, which they claim has been corrected, but wants to know what the set back is from a neighbor's property, for a septic tank. Mr. Frotton stated that there are no rules for an old septic but he would investigate it to be sure they are properly connected.

Allan Dean- Second Ave- would like to have Second Ave considered for one of the 2005 road improvements. He also asked who was currently maintaining the Borough's web site. Sally Sanzone is still currently performing those services. Mr. Dean stated that he has received requests for minutes and when the Borough would be updating its site. Council member Ladiana feels the site needs to be approved. Mr. Dean did express his interest, if there was an RFP, in submitting a proposal.

Jane Frotton-mentioned that Dennis Sheehan had worked on a site through the Harbor, but was unable to get one up and running and would like the Borough to consider paying someone to bring us into the 21st century.

ADJOURN - There being no further business before the Mayor & Council, Council member Nolan moved to adjourn the meeting at 10:05 PM, the motion was seconded by Council member Ladiana and unanimously approved.

January 12, 2005

The Governing Body on February 9, 2005 approved these minutes.

Dwayne M. Harris
Acting Municipal Clerk