



MINUTES OF THE MAYOR & COUNCIL REGULAR MEETING OF JULY 13, 2005

The Regular Meeting of the Mayor and Council of the Borough of Atlantic Highlands was held on July 13, 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, Noonan, and Spatola. Borough Attorney Miller, Borough Engineer Elliott, and Municipal Clerk Harris were also present.

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.

PUBLIC COMMENT SESSION

Ed Cetron-1 Auditorium Dr- has reviewed the tree ordinances and strongly suggests that there be a meeting of all interested parties, the code office, the Borough engineer, the shade tree appointees designated by Mayor and Council and the necessary Borough officials and build a process to enforce our Development Ordinances.

William Phillips-Memorial Pkwy- thanked the Council on behalf of the Fire Dept, for the support and cooperation they have received in putting on the fair this year, which was truly a Borough event.

Tim Barrett- Memorial Pkwy- commented on the professionalism of Ptlm Harry Murtha and mentioned that Kerry Gowan, the animal control officer, is a God send after he witnessed her assisting a dog hit by a car in front of his home. He also commented on the drainage problems on Rt 36. He mentioned that Borough employees drove by the flooded road and instead of clearing the drains, as committed to by the Mayor and Council, they just stopped, looked and waved then drove off.

Joseph Hawley-25 Ocean Blvd- thanked Council member Spatola for the Fire Works and commented on the success of the fair. He then read a statement regarding Mayor Donoghue's editorial about the Green Acres reimbursement for the property purchase in the Lenape Woods. His contention was that Artie Weimer, former Council member, did the lion's share of the work to make this reimbursement a reality, not the Borough Attorney Janice Miller.

Fred Rast-49 Eighth Ave- commented on his reoccurring problems with drainage, caused by the streetscape construction. He assert that a severed 4" water main, on First Ave was the cause of his water problems as well as the blocking of a drain during the Streetscape construction in front of the movie theater. He also complained that there was low water pressure at 68 First Ave, and it was determined that either a water main across the street on First Ave is broken or it is old and should be replaced. To do this he would have to put up a \$5,000.00 bond to open the street as well as pay thousands of dollars in permit fees. He would like the Borough to offer him financial relief for his expenses.

Mike Rybeck-North Ave-asked on the status of the smoke testing and the issue of the curb box on Highway 36 were it is possibly connected to the sewer.

ORDINANCE 14-2005, 2005 BOND 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 Nolan, seconded by Council member Ladiana and unanimously approved.

PUBLIC HEARING

No member of the public came forward.

Council member Archibald asked what the extra \$115,000 in the streetscape was. The engineer explained that it was to cover engineering and inspection services and the balance of the construction costs.

A Motion to close the Public Hearing was moved by Council member Noonan, seconded by Council member Spatola and unanimously approved.

FINAL ADOPTION was moved by Council member Noonan, seconded by Council member Nolan and approved by the following vote.

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

NAYS:

This Ordinance will take effect after the 20-day contestability period, which commences with the first publication of the Notice of Adoption, has expired.

RESOLUTION 126-2005, PROFESSIONAL SERVICES CONTRACT-2005 ROADWAY IMPROVEMENTS

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

This resolution was adopted by the following vote.

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

NAYS:

RESOLUTION 127-2005, PROFESSIONAL SERVICES CONTRACT-WATER MAIN IMPROVEMENTS

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

This resolution was adopted by the following vote.

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

NAYS:

RESOLUTION 128-2005, PROFESSIONAL SERVICES CONTRACT-INDOOR AIR QUALITY ASSESMENT

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

Council member Nolan questioned why a portion of the proposal was not included in the Resolution. It was reported that that portion was completed in-house eliminating the need for Birdsall to produce it.

This resolution was adopted by the following vote.

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

NAYS:

RESOLUTION 129-2005, PROFESSIONAL SERVICES CONTRACT-WASHINGTON AVE. SIDEWALK REPLACEMENT

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

Council member Nolan requested the Borough notify the residents that this project is happening.

The Engineer reported that one particular resident approached her and requested his peanut stone curbing be replaced. The engineer explained that curbs were not in the scope of this project.

This resolution was adopted by the following vote.

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

NAYS:

Council member Archibald expressed his desire to table Resolution 130-2005. He believes the Borough cannot enter into this agreement because it would be changing the use of the property. Council member Fligor t stated the current use is Water Front Business and if they want to use it for a parking lot, they would have to get a Use Variance from the Planning Board. Also they just received this agreement prior to this meeting and have not had a chance to read it. He does not think it in the best interest of the town to pay the same amount and get less use of the property. The attorney feels that if the Hesse Co. is leasing it to some one else, that is a whole other issue. As to this lease, the Borough's use has not changed and it can enter into this lease.

By consensus of the Council this resolution was not introduced or called upon for a vote.

RESOLUTION 131-2005, CONTRACT AWARD-HARBOR PARKING PHASE IV

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, Noonan, Nolan and Spatola

NAYS:

RESOLUTION 132-2005, AUTHORIZING WIRING AGREEMENT WITH COMCAST

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, Noonan, Nolan and Spatola

NAYS:

RESOLUTION 133-2005, AMENDING THE CASH MANAGEMENT PLAN

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, Noonan, Nolan and Spatola

NAYS:

RESOLUTION 134-2005, PAYMENT OF BILLS

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

Council member Fligor questioned why the gas bill was over \$2,000.00. .

Council member Nolan questioned which truck got a new transmission.

Council member Fligor questioned the purchase of animal control software.

Council member Fligor withdrew his second to the motion. Council member Noonan offered his second to the motion.

Council member Archibald questioned the amounts paid to Jersey Professionals.

This resolution was adopted by the following vote.

AYES: Council members Ladiana, Noonan, Nolan and Spatola

NAYS: Council members Archibald and Fligor

RESOLUTION 135-2005, CHAPTER-159 ALCOHOL EDUCATION REHAB ENFORCEMENT FUND

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

This resolution was adopted by the following vote.

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

NAYS:

RESOLUTION 136-2005, CANCELLATION OF WATER AND SEWER UTILITY BILLS

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

This resolution was adopted by the following vote.

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

NAYS:

RESOLUTION 137-2005, RENEWAL OF LIQUOR LICENSE

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

This resolution was adopted by the following vote.

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

NAYS:

Abstain: Council member Noonan

RESOLUTION 114-2005 PERSON TO PERSON TRANSFER OF LIQUOR LICENSE

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

This resolution was adopted by the following vote.

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

NAYS:

Abstain: Council member Noonan

RESOLUTION 138-2005, ESTABLISHING A MINUTES REVIEW COMMITTEE

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

Council member Nolan questioned why this was necessary. Attorney Miller answered that it was necessary to review the minutes from executive sessions so they may be released in accordance with the law.

Council member Archibald feels that this is absurd. He also feels the clerk or the administrator should be able to review something that may be a paragraph long.

After further discussion, Council member Archibald suggested that this resolution be amended to exclude the attorney from this committee.

Council members Ladiana and Noonan agreed to amend their resolution to exclude the attorney.

This resolution was adopted by the following vote.

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

NAYS:

RESOLUTION 139-2005, AMENDING THE ADMINISTRATIVE PERSONNEL MANUAL

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

Katherine Wigginton asked for clarification of the Resolution, she feels that any employee that has been employed for less than a year will be shorted vacation time.

After an explanation of the intention of the resolution, Council member Nolan commented that the changes of this policy were for something else a this kind of changes the policy and should be reviewed by the personnel committee. He made a motion to table this until the personnel committee reviewed it.

RESOLUTION 140-2005, AUTHORIZING CONTRACT-OCEAN CLUB PARKING LOT REPAIR

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

Council member Archibald asked for an explanation, which was offered by Jane Frotton of the Harbor Commission.

This resolution was adopted by the following vote.

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

NAYS:

Council member Archibald asked the consent agenda items be separated.

Council member Archibald moved to accept the minutes of June 8, 2005. It was seconded by council member Noonan and carried by the following vote

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

NAYS:

ABSTAIN:

Council member Archibald moved to accept the minutes of June 22, 2005. It was seconded by council member Spatola and carried by the following vote

AYES: Council members Archibald, Noonan, Nolan and Spatola

NAYS:

ABSTAIN: Council members Fligor and Ladiana

The Executive Session minutes for June 22, 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 Ladiana reported that she had met with Bill Bate and the Harbor Engineer; they had submitted four expressions of interest to the "I Boat NJ Program". The Office of Maritime Resources encouraged them to submit a proposal. The suggestion was to combine the two proposals to upgrade and replace the electrical on Frank's Pier and the other piers. The combined two would cost about \$400,000 but we could potentially receive about half of that as a grant.

Council member Ladiana moved a Resolution on behalf of the Governing Body to express its support to the awarding of the grant to upgrade the electrical at various points in the Harbor. It was seconded by Council member Nolan and carried by the following vote.

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

NAYS:

ABSTAIN:

She also reported the Personnel Committee is still in the process of interview Administrator candidates. Dawn Babcock, the new CFO has begun working and is doing well. The Auditors are here and have begun working on the audit.

Council member Fligor reported NJNG is currently on time and moving along. He has requested from them that they put more trees along Manymind Creek. They are looking into it. The gas company, per their agreement with him and John Phair, will do the Borough yard paving to completion. He commented that the MCIA final resolution would be prepared for the July 27th meeting.

Council member Nolan reported on the Harbor paving and the work being planned to make the dredge pit available. He commented on the success of the Firemen's Fair.

Council member Archibald reported that summer recreation is in full swing and there are about 70 children signed up. Peter Richardson is the new director. The summer concerts will be in the Harbor on Sundays. He noted to check the schedule because some of them start at 6: pm. Field Hockey Camp began this week and the Tennis Clinic will start next week.

He and the Mayor had a meeting with the DOT regarding the Bike Path along Rt. 36. Several members of the DOT were present along with Chief Vasto and Administrator Jahn. He had a copy of the plans for review if anyone would like to see them. They are not going to start this fall. The Chief made some recommendations regarding safety and they will take them into consideration and plan to have a future meeting.

Council member Spatola thanked the Fireworks Committee for their hard work. They are planning for next year, the opportunity for residents to sponsor a Firework, in hopes that it will lengthen and fill the display, by having more fireworks in the sky at one time. Recreation has new Whiffle Ball tournament She would like the Council to establish a team. It will be held the last week in July on the 23rd and the 30th. She also reported that the Stone Bridge is almost completed and it looks great.

Council member Noonan reported that he met with Chief Vasto to review the crowd and overall success of the fair. It was the largest crowd in the past 30 years that attended the Fireworks. He also mentioned that there were no major incidents and he gave them and the Fire Dept credit for the success of the whole event. He noted that the Elks made a very nice donation of Ballistic Helmets to the Police Dept. The total cost is well over \$5,000 and each member of the Dept is fitted with one.

Engineer Elliott reported that she is moving along with the various projects. She also mentioned the DOT had replaced the manhole cover at Seventh and 36 with a slotted one to allow more drainage.

PUBLIC COMMENT SESSION

Jake Hoffman- commented that he had been negotiating with the Gas Company for the past six year. His concern is that the gas company has raised their property level, and now they are expressing concerns about ground water, when they have actually aggravated the situation, which never existed before.

William Phillips-Memorial Pkwy- asked for a clarification of what Resolution 130-2005 was. He asked who owned the Joey Miles liquor license. He asked if there were any law that would preclude someone from holding more than one liquor licenses?

Chief Vasto corrected Mr. Noonan in that it was the Lions Club that made the donation, not the Elks. He also mentioned that the lease agreement with Sea Streak gives the Borough use on the weekends and Holidays and questioned how that affects the Fourth of July events, which does not always fall on a weekend.

Bernard Frotton-commented on the lack of response from the Borough in supplying requested information to the Division of Pension and benefits. He believes he has been patient with and accommodating to the needs of the Borough. He feels this is procrastination and is beginning to believe it is intentional. He would like the Borough to respond to their request and supply the information, or he will pursue it on another level.

Paul Barbado-Lawrie Rd- gave credit to Administrator Jahn for sending some of the Borough workers to do some of the curb in need of repairs. He noted that they did use some of his blocks in doing the job. He has also been in contact with Commissioner Lettieri, with the DOT. He mentioned a letter being sent to Ms. Elliott and asked if the Council had seen the letter and if they were going to respond to the letter. He would forward a copy of the letter to Borough Hall for distribution to the Governing Body members.

Tim Barrett- Memorial Pkwy- would like to see the Ordinances regarding brush. He commented that people put leaves on the highway and it blows down, onto his and others property. He is picking up leaves and brush on his property and he has no trees, except one pine tree.

Joseph Hawley-Ocean Blvd- asked who brought forth the resolution amending the Administrative Employee Personnel manual. He also suggested the Borough put an ad in the newspaper instead of spending \$2,800 for resumes. He also mentioned a prior Bond Ordinance regarding parks and the construction of a skateboard park. He wants to know what happened to the skateboard park? The kids want it and need it. There is nothing in town for them to do. He wants them to reconsider what they are going to do with that money and utilize it to build a skateboard park.

Kate Wigginton- Ave D- asked Council member Fligor if the assessor has determined if the use of the Hesse property as a parking lot qualifies for an added assessment. She asked Council member Archibald if the DOT would consider helping with the Henry Hudson Trail and the bike path. She would also like the powers to be, at Firemen's Field, to allow the Shade Tree commission to plant some trees along W. Highland Ave. She also commented that Shade Tree violations are out of control.

Tim Barrett-Memorial Pkwy- commented on the concern about kids walking down the sidewalk along the highway, and he can't believe they would allow them to ride a bike on the highway.

Council member Archibald asked were the most recent drive-by appraisal on the Giuliani property was. Council member Ladiana responded that it was just a verbal update of the prior appraisal done on the property.

Jane Frotton of the Harbor Commission asked if would behoove us to bring this to the Harbor Commission first and get them to approve or request an update of the appraisal. She has commented that the Harbor Commission and the previous administrations have negotiated and fought for years to acquire that property. She feels this administration is excluding the Harbor Commission in this process. She suggest the Mayor come and meet with the Harbor Commission and let them know what he is doing, and get their thoughts on it.

Council member Archibald asked if we have engaged Mr. Gagliano and if he would be able to provide us with a scope of the appraisal.

Mary Wall-79 Ocean Blvd- asked under whose direction the attorney addressed Mr. Gagliano.

Council member questioned why Mrs. Miller has to do this. The Administrator or the Mayor can contact Mr. Gagliano and we wouldn't have to pay Mrs. Miller to do this.

RESOLUTION TO ENTER EXECUTIVE SESSION

WHEREAS, the Open Public Meetings Act provides that the Mayor and Council may go into Executive Session to discuss matters that may be confidential or listed in N.J.S.A. 10:4-12; and,

WHEREAS, it is recommended by the Borough Attorney and Administrator that the Mayor and Council go into Executive Session at this time to discuss matters set forth below which are permissible for discussion in Executive Session;

NOW THEREFORE BE IT RESOLVED by the Mayor and Council of the Borough of Atlantic Highlands to go into Executive Session to discuss the following items. Minutes will be kept and once the matter above no longer requires confidentiality the minutes will be made public.

- 1) Possible land acquisitions
- 2) Personnel matters

July 13, 2005

Mr. Harris read this resolution in full. It was offered and moved for adoption by Council member Nolan at 10:20 PM, seconded by Council member Archibald and adopted by the following vote.

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

NAYS:

RECONVENE - At 11:10 PM the meeting was resumed.

ADJOURN - There being no further business before the Mayor & Council, Council member Noonan moved to adjourn the meeting at 11:11 PM, the motion was seconded by Council member Fligor and unanimously approved.

The Governing Body approved these Minutes at their meeting on July 27, 2005.

Dwayne M. Harris, RMC
Municipal Clerk