



MINUTES OF THE MAYOR AND COUNCIL REGULAR MEETING OF AUGUST 15, 2012

The Regular Meeting of the Mayor and Council, of the Borough of Atlantic Highlands, was held on August 15, 2012 in the public meeting room of Borough Hall, 100 First Avenue Atlantic Highlands NJ.

Mayor Rast called the meeting to order at 7:00 PM. After a silent prayer and the Pledge of Allegiance, the following roll call was taken:

Municipal Clerk Harris stated that notice of this meeting has been transmitted to the Asbury Park Press and the Two River Times, continuously posted in the Borough Hall on a bulletin board reserved for such announcements, and filed in the office of the Municipal Clerk of Atlantic Highlands, on 1/03/2012. He read the "Open Public Meetings Act" compliance statement and stated that formal action would be taken.

Roll Call:

Present: Councilman John Archibald Jr., Councilman Peter T. Doyle, Councilman Lou Fligor, Councilman Jacob Hoffmann, Councilman Robert Sutton, Mayor Frederick J. Rast III.

Absent/Excused: Councilman Roy Dellosso.

Thomas Neff was present on behalf of our Engineer, David Marks.

PRESENTATION OF THE MAYOR AND COUNCIL – STEVEN GLUCKSTEIN

Mayor Rast, on behalf of the governing body, presented Steven Gluckstein with a "Key to The Borough" in recognition of his accomplishments on becoming an Olympic Athlete in the 2012 Summer Olympics in London. He also presented the following Resolution which was signed by all members of the Governing Body:

RESOLUTION

Of the Borough of Atlantic Highlands

HONORING
STEVEN GLUCKSTEIN

2012 Olympic Games, Men's Trampoline

WHEREAS Steven Gluckstein, the son of Loretta and Steven Gluckstein, Sr., was raised in Atlantic Highlands and began his career practicing taekwondo at his school. After the school's closure forced him out of martial arts, his mother signed him up for gymnastics and in 2000, at age 10, Steven started on the trampoline and he quickly found his niche; and,

WHEREAS although the first modern trampoline was built by George Nissen and Larry Griswold in 1936, destiny would have the competitive, gymnastic sport of trampolining added to the Olympic rostrum also in the year 2000, the year prior to Steven's first competition on the national level where he finished sixth overall; and,

WHEREAS in 2007 Steven was named to the Senior National Trampoline team, and has since travelled the World competing in National and International Championship Competitions like the World Cup and Pan American Championships, winning over 8 national titles and several international events as a Junior Elite athlete; Steven also became the front runner going into the Final Selection event at the 2008 Olympic Trials; and,

WHEREAS in 2009, Steven captured the first US Champion title of his career, winning the US Senior Men's Trampoline Title at the Visa National Championships, and in 2010 Steven was ranked number one in the world in Synchronized Trampoline, winning the two-year World Cup Circuit; and,

WHEREAS Steven, who is currently ranked #2 in the country, is a four time U.S. Trampoline Champion, and a four time U.S. Synchronized Trampoline Champion, sits on the New Jersey State Trampoline and Tumbling board as the athlete representative, and has been a Category 1 USA Judge since 2008; and,

WHEREAS on June 27, at the 2012 USA Gymnastics Trampoline Championships, which was the third of three events that would determine the one man and one woman who represented the U.S. at the 2012 Olympic Games, Steven, after taking top honors at both of the first two events, became the 2012 USA Gymnastics Trampoline Championship, which secured him a spot on the 2012 USA Olympic Team representing the United States on the world's biggest stage, in London at the 2012 Summer Olympics; and,

WHEREAS in the words of Councilman John Archibald, " *Atlantic Highlands doesn't place a hometown hero in the Olympics very often. A product of Atlantic Highlands Elementary School and graduate of Henry Hudson Regional High School, Steven has traveled throughout the world plying his trade. He has competed for national and world championships, and like all Olympic athletes has made sacrifices along the way. But he has reached one goal and all of our eyes should be on him ... and no matter how the young man fares, he has made this little burg proud.*"

NOW, THEREFORE BE IT RESOLVED by the governing body of the Borough of Atlantic Highlands, County of Monmouth, and State of New Jersey that on this day, August 15, 2012, a "Key to The Borough" be presented to **Steven Gluckstein** in recognition, for becoming a 2012 Olympic athlete, and for his other notable accomplishments on the National and World stages in the sport of trampolining.

BE IT FURTHER RESOLVED that all of Atlantic Highlands wishes him continued success as he strives to reach higher heights and accomplish all of the goals, both personal and competitive, that he has set for himself.

APPROVAL OF PREVIOUS MEETING MINUTES:

Regular Meeting - July 25, 2012

Motion: Approve Minutes of July 25, 2012, **Moved by** Councilman John Archibald Jr., **Seconded by** Councilman Jacob Hoffmann.

Motion passed unanimously.

WORKSHOP DISCUSSION:

None

REPORTS – COUNCIL, ADMINISTRATION, PROFESSIONAL, OTHER

Councilman Archibald gave a recap of the Police report for the month of July. The Police are down to three candidates for the open Patrolman spot and hopeful they will have a final candidate soon.

Councilman Hoffmann reported that the Fire Department has recovered after the fair and is on to bigger and better things. He reported that Allan Schuman has submitted a letter withdrawing his request to operate a Casino Boat out of the Harbor. The Harbor Commission will honor that request.

Councilman Doyle had no report.

Councilman Sutton had no report.

Councilman Fligor reported that yesterday was the 9th Annual Mark Spatola Blood Drive held at Saint Agnes. They received 72 pints of donated blood. He reported the Sewer Authority received money from FEMA for damages that were incurred during Hurricane Irene. He reported Barry Leasor received his C-2 License and can now run the sewer plant. He reported that another full time employee from the Authority has resigned, and they are looking for a replacement because they need two full time employees to run both plants.. He reported the Environmental Commission is looking for approval from the Harbor Commission to place storage racks in the Harbor for people to store their Kayaks on. There are a lot of people in town who use kayaks and this would be a benefit to them. He reported Avenue A has been cleaned up with peanut stone being put down in the entrance.

Mayor Rast announced that this is the 125th anniversary for the Borough. He announced the Mayor's Ball on September 28th 7:00pm at the Shore Casino, and the Historical Society will be the benefactors of the proceeds from the Mayor's Ball. He would love to see a lot of people attend and if possible dress in clothing from that period.

Administrator Hubeny reported on the "Go Gold Campaign" previously supported will be held in September on the 7th through the 21st. He has an issue with an Easement on Ocean Blvd and Lawrie Road that is being worked out with Mr. Reilly. The owner at 200 Ocean Blvd will incur all of the expenses to execute the easement. Our attorney is asking that the formality of an Ordinance be put together to approve the conveyance. He reported that the rain earlier today had caused some major issues on Ocean Blvd and Bayside Drive. The Street Dept Supervisor went up on Hillside Road and found some breaches in the silt fencing and the hay bales, but we are going to need to get the Engineer involved to come up with a fix, because with all of this rain, it is just not working properly. He also reported on a problem at Highway 36 and King James with flooding, and it may be time to get the state involved to install a larger storm drain there.

Clerk Harris reported the Beacon will be published in September and asked everyone to communicate with their respective groups to have articles submitted by August 24th. He reported the League of Municipalities Conference is in November and asked if anyone was interested to

let him know soon. He asked that Great American Leasing in the amount of \$496.90 be added to the bills list and approved for payment so we do not incur a late fee. He finally mentioned that the title of Resolution 129 had been changed although the content has not.

Attorney Reilly commented on lawsuit pending by Mr. Ritter regarding the mooring of his boat in the Harbor. The appeal filed by Mr. Ritter will be held on September 11 in the Appellate Court.

Councilman Archibald made a recommendation that American Flags be purchased and hung along First Ave, on the poles during different periods through the year, like Memorial Day and the Fourth of July, and Veteran's Day. It was suggested that the Beautification Committee look into this.

Neff mentioned the two projects being advertised at Bid. The Well #1 Replacement has received all of the DEP approvals and it will be advertised for Bid this Friday, hopefully to be awarded at the September 26th meeting. He also mentioned the West Avenue Resurfacing Project which too has all of the DEP approvals and will be advertised on Friday. This will be awarded a little sooner since it is a basic road job.

James Krauss of the Environmental Commission reported that Mr. Weinberg is just about complete at Hudson Springs. He has done an inspection and does not see anything missing. They will need to figure a way to deal with the Nott Weed which has grown up over the spring. The Commission also proposed that people also be able to drive in and launch a kayak at the fishing pier. They also believe they have Nicolai Grecco lined up to remove the old bring along Lenape Woods East as an Eagle Project. He thanked both Don Gates and the Administrator for putting together the proposal for the grant on Many Mind Creek.

Kim Spatola reported the Beautification Committee is taking an inventory of the banners along First Ave to see what needs to be retired, which have been lost or need to be replaced. With the extension of Streetscape further into the Harbor, there will be more poles that need banners and the Committee will need to acquire some.

PUBLIC COMMENTS

Christian Marsten – 31 Ocean Blvd lives behind the Harbor and likes the idea about placing a rack for the kayaks in the Harbor. He thinks that is a great idea. He also asked about the dirt road [Bayside Drive] and wants the Council to consider that people use bicycles along that road and a gravel path would prevent or impede that use.

Jim Krauss 77 Bayside Drive clarified the erosion event on Bayside Drive and the problem has nothing to do with Bayside Drive, it is Hillside Road. The gabion installed in 2009, is no longer the solution and he is uncertain if it ever was. He outlined several areas of concern and different storm/rain event issues with neighboring properties.

UNFINISHED BUSINESS:

RESOLUTION 113-2012, DENYING PERSON –TO-PERSON TRANSFER OF LIQUOR LICENSE

Matthew Smith from Atlantic Wine and Spirit asked that this item be held until his attorney arrived. Mayor Rast agreed to do so and continued on with the consent agenda.

NEW BUSINESS:

Consent Agenda: These items were enacted by one motion. If detailed deliberation was desired on any item, Council could have removed that item from the consent agenda and consider it separately.

- a. Resolution 116-2012, Support of the 2013 Municipal Alliance Program
- b. Resolution 117-2012, Approving the Design of the Well #1 Replacement Project
- c. Resolution 118-2012, Approving the Design of the West Avenue Resurfacing Project
- d. Resolution 119-2012, Authorizing Advertisement/Receipt of Bids – Well #1 Replacement
- e. Resolution 120-2012, Authorizing Advertisement/Receipt of Bids – West Ave Resurfacing
- f. Resolution 121-2012, Liquor License Renewals
- g. Resolution 122-2012, Refunding Tax Sale Premium – Certificate #12-00013
- h. Resolution 123-2012, Granting Full Tax Exempt Status – Richard Yereance
- i. Resolution 124-2012, Certification of the 2011 Annual Audit
- j. Resolution 125-2012, Change Order #4 and Final – JADS Construction - 2009/2010 Road Project
- k. Resolution 126-2012, Accepting the 2012 Pedestrian Safety Grant
- l. Resolution 127-2012, Chapter 159 Resolution for the 2012 Pedestrian Safety Grant
- m. Resolution 128-2012, Payment of Bills \$1,280,444.58
- n. Resolution 129-2012, Authorizing the Conveyance of Scrap Junk Vehicles to be Sold in Bulk

Motion: Action: Approve Consent Agenda Resolutions 116-129, **Moved by** Councilman John Archibald Jr., **Seconded by** Councilman Peter T. Doyle.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 5).

Yes: Councilman John Archibald Jr., Councilman Peter T. Doyle, Councilman Lou Fligor, Councilman Jacob Hoffmann, Councilman Robert Sutton.

ORDINANCE 09-2012 – ADOPTING AND IMPLEMENTING THE ATLANTIC HIGHLANDS PURCHASING MANUAL - Introduction/First Reading

Motion: Approve Ordinance 09-2012 **Moved by** Councilman Lou Fligor, **Seconded by** Councilman John Archibald Jr.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 5).

Yes: Councilman John Archibald Jr., Councilman Peter T. Doyle, Councilman Lou Fligor, Councilman Jacob Hoffmann, Councilman Robert Sutton.

RESOLUTION 113-2012, DENYING PERSON –TO-PERSON TRANSFER OF LIQUOR LICENSE

Attorney Reilly explained this resolution was prepared and submitted to the applicants attorney, who although did not agree with it, did not request any evidentiary hearings. The recommendation is being made by the Police Department based on their investigation. He stated that the attorney for the sellers was present and suggests they be heard prior to moving on this matter.

Attorney Lawrence Latrell, who is representing Matthew Smith of Atlantic Wine and Spirits, stated his confusion regarding the background check to see if the buyer is qualified to obtain the license. He feels the statutory requirements, being that the applicant was not convicted of a felony, crime of moral turpitude and the funds utilized could be properly vetted. He believes that all of the statutory conditions have been met and yet the Borough still intends to deny the transfer. He feels that if the issue is with the applicants themselves, the law has remedies in place to deal with future situations that may arise. The sellers are also in financial dire straits and that is no reason to grant or deny an application, but asks that these considerations be taken into account.

Attorney Reilly explained that the applicant has the burden of proof to demonstrate the fitness of character to own a liquor license. The application was filled out and, he does not know how much authority the governing body has to discuss these facts, but the Police Dept did their investigation and concluded the applicant did not meet the burden of proof to their fitness to own the license and therefore do not recommend the transfer. He is also uncertain if the seller has any standing before the State ABC, but can appeal the decision of the Council to the State ABC and an Administrative Law Judge could over rule the Council's decision. He noted the applicant has not requested an evidentiary hearing so unless he [Latrell] has some consent from the applicant, it will not be discussed.

The underlining issue is his client is being told there is some secret reason that is not being revealed, as to why this denial will put them in financial straits, and if this board sees fit to deny an application where there is no conviction of crime and the money is proven to come from a viable source owned by the applicant, you [the council] are not doing what was intended by the legislature. He is trying to appeal to the board, to state there are procedures in place that if the applicant is not operating in a proper way, there are procedures in place where the Police Department can drop the hammer down and the applicant can pay dearly if for non-compliance. He requests the Council please considers the

fact of no criminal convictions and the money has been vetted out, and that the application be approved because of the detriment to his client, which may outweigh any concern the police may have.

Some members of the governing body requested the opportunity to review the Police investigative report prior to making a decision.

Motion: Table this until September 12, 2012, **Moved by:** Councilman Lou Fligor **Seconded by:** Councilman John Archibald Jr.

Vote: Motion carried by unanimous roll call vote (summary: Yes = 5).

Yes: Councilman John Archibald Jr., Councilman Peter T. Doyle, Councilman Lou Fligor, Councilman Jacob Hoffmann, Councilman Robert Sutton.

PUBLIC COMMENT SESSION –

Greg Pollack – 127 Memorial Pkwy mentioned a rain problem and commented that before he came into the meeting, he went and looked in the creek and the water is still orange. It has been orange ever since the construction began on the hill [Cottage Gate]. There is water percolating under the wall in the upper retention basin and running into the highway. He believes that there is something going on and it needs to be looked into. He believes the two pies in the rear of his property, are no longer able to deal with the capacity of the stream. He does not know how it can be fixed but that might be one solution.

Administrator Hubeny believes the storm drains may be covered, because they are not done with construction, at the direction of Freehold Soil. He will investigate the matter and get back to him.

ADJOURN [8:30] - There being no further business before the Mayor and Council:

Motion: Adjourn, **Moved by** Councilman Jacob Hoffmann, **Seconded by** Councilman Peter T. Doyle.

Vote: Motion carried by unanimous roll call vote (summary: Yes = 5).

Motion passed by unanimous consent.

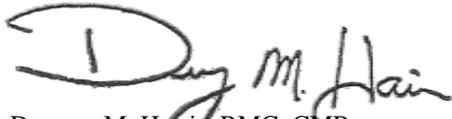
Motion: Approve Minutes of August 15, 2012, **Moved by** Councilman Jacob Hoffmann,
Seconded by Councilman Lou Fligor

Vote: Motion passed (**summary:** Yes = 3, No = 0, Abstain = 1).

Yes: Councilman John Archibald Jr., Councilman Lou Fligor, Councilman Jacob Hoffmann.

Abstain: Councilman Roy Dellosso

I, Dwayne M, Harris, Municipal Clerk of the Borough of Atlantic Highlands, in the County of Monmouth, State of New Jersey, hereby certify this to be the action of the Governing Body at its meeting held August 15, 2012.

A handwritten signature in black ink that reads "Dwayne M. Harris". The signature is written in a cursive style with a large, stylized initial "D".

Dwayne M. Harris, RMC, CMR
Municipal Clerk