



MINUTES OF THE MAYOR & COUNCIL REGULAR MEETING OF NOVEMBER 30, 2005

The Regular Meeting of the Mayor and Council of the Borough of Atlantic Highlands was held on November 30, 2005 in the public meeting room of Borough Hall, 100 First Avenue, Atlantic Highlands, NJ.

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

Mark Straussburg-Asked about item 19 Ordinance 32-2005. He doesn't understand why this is being introduced again. He asked if each member could explain why the council supports it. In the 20 yrs he has had his ABC card, he doesn't see the reason for changing the prior Ordinance. He doesn't feel that the employees should be penalized with an extra tax for new ABC cards. He agrees with the initial background check, but it shouldn't be done every five years.

Jim Barry-Bobo's 33-He agrees with the 5 year renewal. He feels it is necessary, and possibly every 3 years for background check.

Chief Vasto-He notes that the Ordinance needed to be updated and feels that it protects the businesses as well.

Mark Straussburg-Asked how many ABC cards were out as of July 1st when the licenses were renewed. Is there an active list of ABC cards? Chief Vasto indicated that he did not know how many employees are in the various establishments, because the employers have not responded. This new Ordinance would require that businesses would have to submit the names of their employees by April 30.

Council member Archibald commented that he did not know the issue very well. He has talked with the Chief in regard to this issue. He feels that this Ordinance will protect the employer.

Council member Fligor also indicated that he spoke to the Chief to have this back on the agenda. It protects the business owner and the patrons.

William Eaton-Speaking on behalf of Paradise Park Homeowner's Association being subjected to some threat on use and ownership of their homes. Please consider enacting a resolution sending a message to the Borough of Highlands to withdraw the Ordinance and allow us to make an evaluation of your proposal. Loretta Dibble Paradise Park Homeowners Association President urged the Council to fight this proposal.

Michael Burke-3rd Ave-Represents the Cub Scouts of Pack 97 and thanked the Special Events Committee, Mr. Hubeny and the fire department for all their assistance in selling Christmas trees. The Mayor thanked the Cub Scouts for their donation of a tree to the harbor gazebo.

William Phillips-Memorial Parkway-He does not appreciate calls during election time from the State, Local and County people.

Joseph Hawley-25 Ocean Blvd-Inquired about the status of the home being built on Lawrie Road and who authorized the permits? Borough Engineer Kathy Elliott indicates that she reviewed the application and approved, the developer submitted permits to the building department. All aspects of the application were consistent with the requirements.

Jane Frotten-12 Memorial Parkway-She commented that the lights on First Avenue look very nice.

Mike Rybeck-North Ave-Asked what the status of Hwy 36 and First Ave, and the TVing projects. Mr. Hubeny responded that we are waiting for the permit to divert traffic. The side roads are incorporated into the '06 projects. We are having a difficult time getting someone to come with a camera to view these lines. The pump situation is making progress, thanks to the Water and Sewer dept.

Allan Dean-Asked if the TVing includes 2nd Avenue. Asked for clarification of the contract on the Cable franchise. The committee has met with representatives of Comcast. There are several areas to be discussed with some other companies as well.

Ed Cetron-Auditorium Dr.-Comments that we are in the driver's seat with regard to a cable contract.

Mike Harmon-Bonnie Brae Path-Received a certified letter from LGA Engineering regarding plans for the fields and senior housing on Hwy 36. He was asked to comment on the plans, and he wanted to know from the Council if there is a plan here in town and asked if he could look at them. Attorney Miller indicated that a copy has gone to her office and other copies will be available in various places for people to review.

Mary Wall-79 Ocean Blvd-Questioned the issue of a pipe on the property that needed to be removed. Council member Archibald commented that it was a catch basin that we declined. Attorney Miller also indicated that the Borough of AH will not pay for the construction of the basin, therefore they decided to move it.

Mayor Donoghue ended the public comment portion and proceeded with the regular business. Mayor Donoghue would like to propose a Resolution that is not on the agenda to recognizing Chief of Police Jerry Vasto on becoming President of the Monmouth County Police Chief's

Association for 2006. A motion was made by Council member Archibald and seconded by Council member Nolan.

AYES: Archibald, Fligor, Ladiana, Nolan, Noonan and Spatola.

NAYS:

RESOLUTION 198-2005, AUTHORIZING 2005 ROAD PROJECT BID ADVERTISING

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, Nolan, Noonan and Spatola

NAYS:

RESOLUTION 199-2005, DOMESTIC VIOLENCE TRAINING GRANT

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

This resolution was adopted by the following vote.

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

NAYS:

RESOLUTION 200-2005, AWARDING CONTRACT-WATER METER REPLACEMENT PROGRAM

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

This resolution was adopted by the following vote.

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

NAYS:

RESOLUTION 201-2005, AUTHORIZATION TO REMOVE TREE

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

Council member Fligor asked Engineer Elliott how big is the tree. She indicated that it is approximately 36 inches.

Attorney Miller indicated that it is up to them to Tara Homes in regards to who is going to pay for the removal of the tree. They asked to remove it, but they have to make sure there is no subsidence of the slope, they have to put plantings in, that the slope is stabilized. They changed

their mind and decided to possibly stabilize it. Engineer Elliott indicated that it was ok to remove it and so was Mr. Boyd.

Council member Fligor asked Mr. Boyd what his thoughts were on this resolution. He indicated that there would be a liability to the borough if the tree fell, although the tree is eroded on one side, it is healthy and anchored. He indicated with the liability to damage a house roof, it should be removed.

This resolution was adopted by the following vote.

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

NAYS:

RESOLUTION 202-2005, AMENDING THE OPEN SPACE AND RECREATION PLAN

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

Council member Archibald is all for this resolution and feels that we should be honest with the people about what is going to happen with this property. He would like Mr. Cassidy from Greenacres come and explain all the funding that is in line for Atlantic Highlands.

Council member Ladiana indicated that the point is to start it on the Open Space and Recreation Plan, which it hasn't been for the past five years. We need to work towards getting the funding from the state.

Mayor Donoghue responded that a dollar amount when we haven't gotten any appraisals of the property to acquire it. The state has not said that they will give us x-number of dollars.

Council member Archibald asked if it is the understanding that no taxpayer dollars from Atlantic Highlands will be used to acquire this property.

Mayor Donoghue indicated that we have been promised that we will have the resources to buy that property. If it doesn't happen or it turns out that it is going to cost us an amount of money that we don't want to do, we can stop the process.

This resolution was adopted by the following vote.

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

NAYS:

RESOLUTION 203-2005, PAYMENT OF BILLS TOTALING \$425,853.00

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 member Archibald, Fligor, Ladiana, Nolan, Noonan and Spatola

RESOLUTION 204-2005, EMERGENCY APPROPRIATIONS-POLICE SALARIES AND WAGES

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

Council member Nolan asked if the harbor appropriations can be cancelled if the funds are not used by the end of the year.

Mr. Hubeny indicated that the \$25,000.00 would be used. The issue is funds that are in other accounts we are trying to put them together.

This resolution was adopted by the following vote.

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

NAYS:

RESOLUTION 205-2005, ADJUSTMENTS TO SEWER BILLS

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 member Archibald, Fligor Ladiana, Nolan, Noonan and Spatola

NAYS:

RESOLUTION 206-2005, SALE OF BOND ANTICIPATION NOTES

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

This resolution was adopted by the following vote.

AYES: Council member Fligor, Ladiana, Nolan, Noonan and Spatola

NAYS:

ABSTENTIONS: Council member Archibald

RESOLUTION 207-2005, TRANSFER OF FUNDS

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

This resolution was adopted by the following vote.

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

NAYS:

RESOLUTION 208-2005, CANCELLATION OF UNEXPENDED BALANCES

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

This resolution was adopted by the following vote.

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

NAYS:

RESOLUTION 209-2005, CHAPTER 159-YOU DRINK AND DRIVE YOU LOSE

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 member Archibald, Fligor, Ladiana, Nolan, Noonan and Spatola

NAYS:

RESOLUTION 210-2005, PERSON AND PLACE LIQUOR LICENSE TRANSFER

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 member Archibald, Fligor, Ladiana, Nolan, Spatola

NAYS:

ABSTENTIONS: Council member Noonan.

RESOLUTION 211-2005, FORMAL OBJECTION TO ORDINANCE 005-2003

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

This resolution was adopted by the following vote.

AYES: Council member Archibald, Fligor, Ladiana, Nolan, Noonan and Spatola.

NAYS:

PUBLIC HEARING

A motion to open the Public Hearing for Ordinance 23 through 28 was made by Council Member Archibald and seconded by Council member Ladiana and unanimously approved.

Mike Harmon-Bonnie Brae Path-What exactly is the Wildlife feeding includes birds and ducks.

Mayor Donoghue indicated that prohibited conduct would be no person shall feed in any public park or property owned by the borough any wildlife excluded confined wildlife.

Mary Wall-asked if it could be explained about the illicit connections.

Mayor Donoghue responded that no person shall discharge or cause to discharged to the borough sewerage system.

Ed Centron-Questioned on pick up of leaves. Asked how the Ordinance would be in effect.

Mr. Harris explained that the clarification of this ordinance is five days before an announced collection.

Joseph Hawley-Asked if feeding cats in the harbor falls in the Wildlife ordinance?

Council members responded that if the cats are wild, then yes.

A motion to close the Public Hearing was moved by Council member Fligor and seconded by Council member Archibald and unanimously approved.

NAYS:

ORDINANCE 23 -2005, ILLICIT CONNECTIONS

This Ordinance was previously introduced and a public hearing was done three weeks ago. This is the second reading and possible adoption. A motion to adopt this Ordinance was made by Council member Ladiana and seconded by Council member Nolan.

There was no discussion on the Ordinance.

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

NAYS:

ORDINANCE 24-2005, WILD LIFE FEEDING

This Ordinance was read by title. A motion to adopt this Ordinance was made by Council member Ladiana seconded by Council member Fligor.

There was no discussion on this Ordinance.

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

NAYS: Council member Archibald

ORDINANCE 25-2005, IMPROPER WASTE DISPOSAL

This Ordinance was read by title. A motion to adopt this ordinance was made by Council member Archibald and seconded by Council member Fligor.

There was no discussion on Ordinance 25.

AYES: Council member Archibald, Fligor, Ladiana, Nolan, Noonan, Spatola

NAYS:

ORDINANCE 26-2005, LITTER CONTROL

This Ordinance was read by title. A motion to adopt this ordinance was made by Council member Ladiana and seconded by Council member Archibald.

There was no discussion on Ordinance 26.

AYES: Council member Archibald, Fligor, Ladiana, Nolan, Noonan, Spatola.

NAYS:

ORDINANCE 27-2005, CONTAINERIZED YARD WASTE

This Ordinance was read by title. A motion to adopt this ordinance was made by Council member Noonan and seconded by Council member Ladiana.

AYES: Archibald, Fligor, Ladiana, Nolan, Noonan, Spatola.

NAYS:

ORDINANCE 28-2005, PET WASTE

This Ordinance was read by title. A motion to adopt this ordinance was made by Council member Archibald and seconded by Council member Ladiana.

There was no discussion on Ordinance 28.

AYES: Council member Archibald, Fligor, Ladiana, Nolan, Noonan, Spatola.

NAYS:

ORDINANCE 30-2005, FACILITATE THE PROVISIONS FOR AFFORDABLE HOUSING

This ordinance was read by title. A motion to open the Public Hearing was made by Council member Fligor and seconded by Council member Ladiana and unanimously approved.

PUBLIC HEARING

Mary Wall-Ocean Blvd-At the last meeting, the wording on the ordinance that was drawn up could not be changed when it went to the planning board because COAH might reject it because of the wording. Is COAH making the changes? Attorney Miller states that COAH is making the changes. The ordinance will be re-introduced after the 1st of the year after COAH has come out with new language.

Allan Dean-Second Ave-He stood in favor of this Ordinance.

A motion to close the Public Hearing was made by Council member Fligor and seconded by Council member Ladiana and unanimously approved.

A motion to adopt Ordinance 30 was made by Council member Nolan and seconded by Council member Fligor.

AYES: Council member Archibald, Fligor, Ladiana, Nolan, Noonan, Spatola.

NAYS:

ORDINANCE 31-2005, AFFORDABLE HOUSING DEVELOPMENT FEES

This Ordinance was read by title. A motion to withdraw the Ordinance was made by Council member Fligor and seconded by Council member Ladiana.

There was no discussion on this ordinance.

AYES: Archibald, Fligor, Ladiana, Nolan, Noonan, Spatola.

NAYS:

Ordinance 31 has been withdrawn for consideration.

ORDINANCE 29-2005, EXTEND THE TERM OF ORDINANCE 12-96

This Ordinance was read by title. A motion to introduce this ordinance was made by Council member Archibald and seconded by Council member Spatola.

There was no discussion on Ordinance 29.

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

NAYS:

Ordinance 29 has been properly introduced and a second reading and possible adoption will be held on December 14th, 2005.

ORDINANCE 32-2005, AMENDING CHAPTER VI OF THE REVISED GENERAL ORDINANCES

This ordinance was read by title. A motion to introduce this ordinance was made by Council member Nolan and seconded by Council member Fligor.

Council member Spatola asked Chief Vasto is the \$25.00 renewal fee, what exactly does that cover. Chief Vasto responded that \$18.00 will go to the state, \$7.00 goes to the boro for the card. Cindy will be taking care of the renewals.

Council member Fligor asked about members who work for multiple establishments. The cards will be issued with the names of the establishments the individual works at and can be updated if need be with future employment establishments.

Council member Nolan asked if the Council should have cards. Chief Vasto indicated that the employees and senior citizens can get cards for free.

AYES: Council member Archibald, Fligor, Ladiana, Nolan

NAYS:

ABSTENTIONS: Council member Noonan and Spatola

Ordinance 32 has been properly introduced and will be considered for possible adoption on December 14th, 2005.

ORDINANCE 33-2005, AMENDING ORDINANCE 657 SCHEDULE IV-PARKING TIME LIMITS

This Ordinance was read by title. A motion to introduce this ordinance was made by Council member Ladiana and seconded by Council member Fligor.

Council member Archibald asked if this ordinance is going to be enforceable? Council member Ladiana pointed out that there is a police officer standing at the corner on E. Lincoln. Administrator Hubeny also stated that a new system to allow a drop off because of construction currently going on in that area.

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

NAYS:

Ordinance 33 has been properly introduced and will be considered for possible adoption on December 14th, 2005.

A motion to approve the minutes was not done because the minutes of November 9th were not in the packets. They will be considered at a later date.

A motion to go into executive session was made by Council member Archibald and seconded by Council member Nolan and unanimously approved.

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) Item-Sale of Borough Property-Harbor Court and Keystone Drive
- 2) Item-Pending Litigation-COAH
- 3)

Mr. Harris read this resolution in full. It was offered and moved for adoption by Council member Archibald at 9:40pm, seconded by Council member Nolan and adopted by the following vote.

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

NAYS:

RECONVENE - At 10:45pm the meeting was resumed.

REPORTS-COUNCIL MEMBER, COMMITTEE, PROFESSIONAL

Council member Ladiana reported that herself and Mr. Hubeny walked First Avenue with Birdsall regarding Street Scape. Looked at what can be taken out to make it look better. Mr. Hubeny commented that a company will come it and demonstrate a better bulb for the streets.

Council member Fligor called Spence from the county in regards to the Bayshore Trail and NJNG and property we are missing four hundred feet on. He suggests a town meeting the mid to end January.

Council member Nolan had nothing to report

Council member Noonan commented on the savings on the Nextel bill due to consolidation of the phone system.

Council member Spatola mentioned that the Santa run will start Monday. The First Aid could use some volunteers. Also wanted to thank the Christmas Light Committee for the great job decorating the town. Garland will be going up as well.

Council member Archibald noted that the tree lighting will be 4:00pm on Saturday. The Mayor, Mr. Fligor and myself attend the dedication at Henry Hudson.

Mr. Hubeny mentioned that the Spatial Needs Assessment of Borough Hall. He met with a representative regarding codification which we have to budget for and do. Also mentioned quality of life issues addressing the one on Sears Avenue. Leaf dumping location will be changed in order to save money. 2004 Tax Sale has 3 properties. Water project on Scenic Ct and Avenue C is still in progress.

Attorney Miller had nothing to report.

PUBLIC COMMENT SESSION

Mike Harmon-Bonnie Brae Path-He indicated that he was at the planning board meeting and feels that Hovnanian out guns us. He also indicated that he has a history on his 6 acres he owns and Green Acres. The Mayor indicated that Mr. Harmon would be getting a letter to meet with the Open Space Committee.

Council member Archibald asked that he receive any documentation on Open Space Committee. Council member Ladiana indicated that the committee gets together once a month.

Mary Wall-79 Ocean Blvd-Agrees with Mr. Harmon with the special issues with the McConnell property. How contaminated is the property, and what will the clean up entail. Council member Nolan indicates that we can't do testing on someone else's property. Until someone does a detailed land sampling we won't know how contaminated this area is.

Joseph Hawley-Ocean Blvd-he feels it is outrageous that a public meeting was stopped because an attorney stepped into the room. Asked what the status of the Bayshore Trail.

Council member Ladiana reported that exclusion documentation is being submitted. Mr. Hawley also inquired about the Park Name on South Ave. He suggested that the park be named after Mr. Phair.

William Eaton-Followed up on what Mr. Harmon spoke about. Indicated that the interest of the borough and it's integrity be of it's zoning be protected.

A motion to go into Executive Session was made by Council member Nolan and seconded by council member Spatola .

RESOLUTION TO ENTER EXECUTIVE SESSION

WHEREAS, the Open Public Meetings Act P.L. 1975, Chapter 231 permits the exclusion of the public from a meeting in certain circumstances; and,
WHEREAS, this public body is of the opinion that such circumstances presently exist; and,
WHEREAS, the Governing Body wishes to discuss:

1. Item-Sale of Borough Property-Harbor Court and Keystone Dr.
2. Item-Pending Litigation-COAH

Minutes will be kept and once the matter involving the confidentiality of the above no longer requires that confidentiality, then the minutes will be made public.

NOW THEREFORE BE IT RESOLVED, that the Mayor and Council go into Executive Session to discuss the above items and the public is excluded from this meeting.

Mr. Harris read this resolution in full. It was offered and moved by Council member Nolan and seconded by Council member Fligor.

RECONVENE-At 10:47pm the meeting was resumed.

ADJOURN -There being no further business before the Mayor & Council, Council member Noonan moved to adjourn the meeting at 11:30pm, the motion was seconded by Council member Nolan and unanimously approved.

The Governing Body approved these minutes at their Regular Meeting held December 14, 2005.

Dwayne M. Harris, RMC
Municipal Clerk