



# MINUTES OF THE MAYOR & COUNCIL

## REGULAR MEETING OF NOVEMBER 9, 2005

The Regular Meeting of the Mayor and Council of the Borough of Atlantic Highlands was held on November 9, 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.

Mayor Donoghue congratulated those who stood for office and won and also those who were unsuccessful. He mentioned that there was not a very good showing on the public's behalf.

### **PUBLIC COMMENT SESSION**

Mike Harmon-33 Bonnie Brae Path-Asked again about the water problem at his property. He asked that the borough please take a look at it before the winter comes. Administrator Mr. Hubeny notes that our engineer, Kathy Elliott has been out there and looked at it with Bob Dougherty.

Secondly, he mentioned that a piece of property that he owns is on the Open Space list, and he asked the Council to let him know if the town is interested in it. He asks that if the town is not interested to please take it off the list. He mentioned that the Open Space committee was interested in speaking with him in regards to acquiring the property, and he asked for an invitation in writing. Council member Ladiana indicated that it was the other way around, Mr. Harmon asked to meet with the committee to discuss the property.

Roger Everland-20 4<sup>th</sup> Ave- Indicates that he had an e-mail and letter dialogue between Mr. Archibald and Borough Engineer regarding the streets repair on 4<sup>th</sup> and 5<sup>th</sup> Ave. They were slated on the targeted list for this year to address a sewerage problem on these streets, but they were taken off the list. The streets continue to be in disrepair. What is the timing for the next visitation of street repairs? Mayor Donoghue indicates that suggests be made for the Administrator, Director of Public Works and the Engineer come up with a priority list. We are aware of these problems.

Allan Dean-2<sup>nd</sup> Ave-Asked the Mayor about the Cable Franchise negotiations. The cable contract expired last summer and asked if there is an update regards to a new contract reached yet. The Mayor stated that Mr. Hubeny has been in contact with a liaison for the Franchise. Mr. Dean asked if we were dealing with any other companies at this time. Mr. Hubeny stated that no other company has been contacted. There has been no formal contact with other companies.

Mr. Dean also commented that the Harbor Advisory Committee had been formed almost two years ago. The Committee had strongly recommended that the Giuliani property be acquired. Has the committee given a final report and where does it stand

at this time. Mayor Donoghue indicated that there have been no subsequent reports at this time.

Mr. Dean also asked what the status of the ferry terminal committee is at this time. Mayor Donoghue responded that he has met with the department of transportation people to get moving on this and what the requirements are that have to be met.

Mary Wall-79 Ocean Blvd-wanted to congratulate Council member Jack Archibald and Council member elect, Doyle and would like to remind them that the money they spend is public money and the people they were voted to represent are we. Council member Archibald replied that the Council would be very careful with the spending tax dollars and receptive to the public.

Mike Rybeck-North Ave-Asked about the movement on First Avenue regarding the DOT. Mr. Hubeny responded that Birdsall has sent all the applications and details to the state. We are waiting for Mr. Zazza to make the final decision and issue the permit. We are ready to come up with a resolution.

Mayor Donoghue ended the public comment portion and proceeded with the regular business.

**RESOLUTION 193-2005, RAISING THE FEDERAL HOULY MINIMUM WAGE**

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 members: Archibald, Fligor, Ladiana, Noonan, and Spatola

NAYS:

**RESOLUTION 194-2005, APPROVE CHANGE ORDER FOR HARBOR PARKING RESURFACING**

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

There was no discussion on this resolution.

This resolution was adopted by the following vote.

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

NAYS:

**RESOLUTION 195-2005, AUTHORIZE PAYMENT OF BILLS**

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

There was no discussion on this resolution.

This resolution was adopted by the following vote.

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

NAYS:

**RESOLUTION 196-2005,SUPPORT “YOU DRINK, YOU DRIVE, YOU LOSE”**

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

There was no discussion on this resolution.

This resolution was adopted by the following vote.

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

NAYS:

**RESOLUTION 197-2005, TRANSFER OF FUNDS**

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

There was no discussion on this resolution.

This resolution was adopted by the following vote.

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

NAYS:

**ORDINANCE 22-2005, APPROPRIATING \$52,000.00 FROM FUND BALANCE FOR CAPITAL IMPROVEMENTS**

This Ordinance was read by title. This is a second reading and public hearing, possible adoption.

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

**PUBLIC HEARING**

Joseph Hawley-Ocean Blvd-Mentioned that this particular ordinance for capital improvements and that the police need a new vehicle. He knows the sanitation truck needs to be fixed as well, but hopes that a police vehicle would be a priority. Council member Fligor responded that the salt shed is a needed item, we have to have it by Summer 2006 as per the NJDEP.

Allan Dean-Asked about the purpose and need for a Spatial Needs Analysis. Mayor Donoghue stated that the council felt the need to have an expert in this field to take a comprehensive look at what space we have and what we need. This is to get the recommendation of an expert as to what possible direction to go and what the cost would be.

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

A motion to adopt Ordinance 22 was made by Council member Noonan, seconded by Council member Ladiana and approved by the following vote.

There was no discussion on this Ordinance.

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

NAYS:

Mayor Donoghue asked before the following ordinances are introduced that Administrator Mr. Hubeny discuss the possible fines and recommendations. He notes that on Ordinance 23 there is a fine up to \$1,500.00. On the remaining five Ordinances that are proposed the fines start at \$25 and go to \$300.00. He recommends that the Board consider the penalty consistent across the board. Mr. Harris indicated that some of the fines were transitioned from Ordinances that are currently in place others that didn't have any fines attached I surveyed. Littering fines could 4 or 500.00 dollars.

**ORDINANCE 23-2005, ILLICIT CONNECTIONS**

This Ordinance was read by title. A motion to introduce this ordinance was made by Council member Ladiana and seconded by Council member Spatola. There was no discussion on this ordinance.

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

Ordinance 23 has been properly introduced and will be considered on November 30<sup>th</sup>, 2005.

**ORDINANCE 24-2005, WILD LIFE FEEDING**

This Ordinance was read by title. A motion to introduce this ordinance was made by Council member Ladiana seconded by Council member Spatola. Council member Noonan asked if it was going to say up to \$300.00. Attorney Miller states it will say up to a fine not to exceed \$300.00. Council member Archibald asked if this is against wild life and how it will work with Lenape Woods and the wild life there. Attorney Miller indicates that the Storm Water Management requires this ordinance.

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

Ordinance 24 has been properly introduced and will be considered on November 30<sup>th</sup>, 2005.

**ORDINANCE 25-2005, IMPROPER WASTE DISPOSAL**

This Ordinance was read by title. A motion to introduce this ordinance was made by Council member Ladiana, seconded by Council member Archibald. There was no discussion on Ordinance 25.

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

Ordinance 25 has been properly introduced and will be considered on November 30, 2005.

**ORDINANCE 26-2005, LITTER CONTROL**

This Ordinance was read by title. A motion to introduce this ordinance was made by Council member Ladiana, seconded by Council member Noonan. There was no discussion on Ordinance 26.

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

Ordinance 26 has been properly introduced and will be considered on November 30, 2005.

**ORDINANCE 27-2005, CONTAINERIZED WASTE**

This Ordinance was read by title. A motion to introduce this ordinance was made by Council Member Ladiana, seconded by Council member Archibald. There was no discussion on Ordinance 27.

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

Ordinance 27 has been properly introduced and will be considered on November 30<sup>th</sup>, 2005.

**ORDINANCE 28-2005, PET WASTE**

This Ordinance was read by title. A motion to introduce this ordinance was made by Council member Ladiana, seconded by Council member Noonan. Council member Spatola asked if we have an ordinance already outlining pet waste. Attorney Miller indicates that we have an ordinance regarding the regulation of pets and waste, but this ordinance is more specific and detailed.

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

Ordinance 28 has been introduced and will be considered on November 30<sup>th</sup>, 2005.

**ORDINANCE 30-2005, COAH AFFORDABLE HOUSING REGULATIONS**

This ordinance was read by title. A motion to introduce this ordinance was made by Council member Archibald, seconded by Council member Fligor. Mayor Donoghue indicates that this ordinance is required. Council member Archibald asked if these are similar as to other towns.

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

Ordinance 30 has been introduced and will be considered on November 30<sup>th</sup>, 2005

**ORDINANCE 31-2005, AFFORDABLE HOUSING DEVELOPMENT FEES**

This Ordinance was read by title. A motion to introduce this ordinance was made by Council member Fligor, seconded by Ladiana.  
There was no discussion on this ordinance.

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

NAYS:

Ordinance 31 has been introduced and will be considered on November 30, 2005.

**CONSENT AGENDA**

A motion to approve the minutes of the regular meeting of October 26, 2005 was made by Council member Archibald, seconded by Council member Noonan and approved by the following vote:

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

NAYS:

Mayor Donoghue has returned to discussion of the Trail. Council member Ladiana gave an overview. There was a T21 Federal funding that was granted in 1996 for a trail. Engineer Kathy Elliott has submitted subsequent alternative analysis to the DOT.

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

**PUBLIC HEARING**

William Eaton-84 Bay Ave-he supports the Bayshore Trail.

Jerry Vasto-Asked who is responsible as far as extending it, will the county assume responsibility for maintenance and police? Mayor Donoghue indicates that the maintenance commitment we have, as far as policing he believes our police will be a part of that as well.

Mr. Eaton indicates that the Keyport and Middletown police are frequently on the trail.

Bob Parkerson-36 Bayside Drive-He is opposed to the trail because of slump blocking. He references East Point, Ocean Blvd. The existence of a grant should not justify an action.

Council member Noonan asked Council member Ladiana that when the engineers researched this, it's on the old railroad right of way.

Mike Harmon-He supports the trail. He asked if the 200k for the wetlands mitigation have to be used for construction. Council member Ladiana says we have \$125 from the county and about \$400k for construction.

Mike Rybeck-North Ave-He asked if the area by the railroad right of way had been checked for contaminants before we start to build. Mayor Donoghue that he was not certain, but it would be looked in to before building.

Allan Dean-Is in favor of the Bayshore Trail and always assumed that a maintenance agreement had been reached with the county. Do we have anything in writing in regard to this maintenance agreement? Mr. Harmon indicates that there is nothing in writing at the moment. Council member Ladiana indicates that a shovel has to be in the ground so the permit does not expire.

Fred Rast-49 8<sup>th</sup> Ave-Commented that the engineering costs far out weighed the construction cost. Council member Ladiana stated that \$616 thousand was spent on the Trail from First Ave. to the dredge pit. \$350 thousand went to engineering.

Joe Reynolds-Strongly supports, as does the Bayshore Regional Watershed Council the completion of the Bayshore Trail.

Paul Boyd-He indicates that the DOT is ready to go with the funding for the Trail.

Mickey Rast-49 8<sup>th</sup> Ave-Asked if there was an issue or a problem with the Trail going across Firemen's Field. Council member Spatola indicated that it would run right along the creek.

Ginger Lollos-Ocean Blvd-congratulates the council on another enhancement of the town. She is in favor of the Bayshore Trail.

Jackie Royce-Prospect Rd-Echoed the comments of Mrs. Lollos. The environmental commission has worked on this with previous councils as well. She feels that the Trail is an economical asset and the community wants this trail.

Joseph Hawley-Ocean Blvd-How would the path be patrolled. Will there be golf carts, patrol cars. Will we have to hire extra police? Mayor Donoghue indicated that the width of the path would allow golf carts to access the path. Council member Fligor asked Mr. Harmon if the county would be interested in meeting with the council in regards to helping with the trail.

Mary Wall-79 Ocean Blvd-How long will it be before we would have to light the trail? Mayor Donoghue indicates that it would be just like the parks, it would be closed by dusk.

Jane Frotton-Member of the AH Harbor Commissions original commitment that they had made towards it and gave up property to it, was that the Harbor would be involved in the maintenance and security.

Fred Rast-49 8<sup>th</sup> Ave-Suggested finishing what has been started already before starting a new portion of the Bayshore Trail. Council member Fligor stated that the gas company has to finish clean up of Avenue D to Bay Avenue.

Roger Everland- 4<sup>th</sup> Ave-doesn't want to minimize security on the trail, although the council should look at the flip side of not building the trail. Biker riding in the streets

is not a good idea. The speed of cars has increased and that would be a bigger problem if we don't build the trail.

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

#### **REPORTS - COUNCIL MEMBER, COMMITTEE, PROFESSIONAL**

Mayor Donoghue spoke about a program started by the police department regarding Senior ID cards. This is a service available to residents over 65 years of age. It is a very good thing to have.

Council member Archibald indicates that we had a very successful Halloween Parade. Indicates that Karen Moses did a great job putting this event together. There is a recreation meeting tomorrow night.

Mayor Donoghue mentioned that there is a planning board meeting tomorrow night. There are two topics on the agenda, one being Hovnanian to build on the McConnell property.

Council member Spatola mentioned that the corn stalks have taken down. He thanked Cindy and Lou Fligor for getting them down. The new holiday lights will be up after Thanksgiving, and the tree lighting will be December 3<sup>rd</sup>.

Council member Noonan also indicated that the Senior ID cards are very important to have. The police do not retain a copy of the information on the cards.

Council member Fligor addressed the rent leveling board. We currently have Harborview Towers. In the past there have been problems. New owners have taken over the apartments. Mr. Harris has indicated that nothing has been going on. Mayor Donoghue indicates that the legislation for this board, which sets the maximum increase in the rent, expires the end of this year. Mayor Donoghue suggests that we keep such a board on the books because ownership can change, and that we should have some oversight in regards to rent increases.

He also indicates that the Library Board has an issue with the sidewalk by the library. The sidewalk is higher on one side and people are tripping as they come up to the library well. The Library Board would like to have 2 additional evenings to be open. They are asking the Councils permission. They haven't decided what nights but it would service the community.

He also noted that on November 17<sup>th</sup> the Monmouth County K-9 Unit is going to be here at Borough Hall.

He also spoke to NJNG about the cell tower. NJNG would like to see the plans for the cell tower because they would do the concrete footings for it and it would be a lot cheaper if NJNG does it.

Paving at the Borough yard will start in the spring. Sewer Authority We will apply for a \$75,000.00 grant.

Council member Ladiana reports that tomorrow will be a dredge seminar at the Senior Center. She also mentioned that Jackie Royce that she given the 2005 Environmental Excellence Award.



Borough Administer Hubeny had a meeting the HVAC, Kathy Elliott, the Chief, the Mayor, long with a mold and mechanical expert. We are still evaluating what needs to be done. More information will follow. There are some issues with the Borough trees out front of this building.

JADS has started the work on the sidewalks that have been damaged, the pads out front and across the street. Carter's drive is being taken care of as well.

Attorney Miller has nothing to report

Council member Archibald asked anyone from the Harbor Commission about the December 1<sup>st</sup> payment of 50%. What is the reasoning behind this? Council member Noonan responded that the funds needed to be recovered a little earlier so that the budget issues and cash flow were maintained.

Jane Frotton indicated that it was not a unanimous vote. Mr. McDonald and she had issues of taking in money, 20% took 4 or 5 years to get the money flowing evenly again.

William Eaton indicated that the committee discussed the budget, made a proposal for the increased rates. The only discussing he remembers was whether or not there should be a freeze on the rates to residents.

#### PUBLIC COMMENT SESSION

Joe Hawley-recommends keeping the rent leveling board intact. He recommends that it be posted about the meeting in various locations so the people of the town can attend them.

Mr. Frotton-Also indicated that the rent leveling board be kept intact.

Fred Rast- 8<sup>th</sup> Ave-He has a major problem with town property vs. public property. Wondering why we are trying to get the McConnell and Giuliani property. We are going to be spending a lot of money. He feels that the taxing of businesses is crazy the way it is going right now.

Allan Dean-Second Ave-Thanked all the people who were responsible in getting down the political signs in a timely manner. Also asked in regards to the Ordinances, why is number 29 not on the agenda. Mr. Harris responded that it is the renewal of the rent leveling board. Mayor Donoghue indicated that it was decided not to review it tonight.

Mickey Rast- 8<sup>th</sup> Ave-When the New Year comes up and a council member is put on a committee, that someone else be put on the committee if that council member is not present for several meetings. Council member Archibald responded that the council would discuss who would be on the different committees.

Mike Harmon-Asked if the council is going to be represented at the planning board meeting tomorrow by an attorney.

Paul Barbato- 22 Lawrie Rd-Spoke about responsibility and respect of neighbors. He indicates that his neighbors come onto his property and snoop around. Mayor Donoghue indicates that this seems more like a police issue, but Mr. Barbato stated that he has not got to the police as of yet but he will if it continues. He indicates that

he will take care of his violations. Asks that people stop snooping around his property.

A motion to go into Executive session was made by Council member Fligor, seconded by Council Member Noonan 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) Regarding a police matter
- 2)
- 3)

Mr. Harris read this resolution in full. It was offered and moved for adoption by Council member Fligor at 10:00 pm, seconded by Council member Noonan and adopted by the following vote.

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

NAYS:

**RECONVENE** - At 10:25 pm the meeting was resumed.

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

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These Minutes were approved by the Governing Body on December 14, 2005.

Dwayne M. Harris, RMC  
Municipal Clerk