



MINUTES OF THE MAYOR & COUNCIL REGULAR MEETING OF MARCH 9, 2005

The Mayor and Council of the Borough of Atlantic Highlands held their Regular Meeting on March 9, 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 and Spatola. Attorney Scott Arnette, Borough Engineer Elliott and Acting Municipal Clerk Harris were also present. Council member Niles was absent.

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 introduced Scott Arnette who was filling in for Borough Attorney Miller. He then commented on the admission of improprieties by Charles Fallon, father of Borough Auditor Thomas Fallon. He pointed out that Charles Fallon is no longer a principal in the firm of Fallon & Fallon and it is Thomas Fallon that was appointed Borough Auditor, based on his qualifications and the reputation of the firm. He noted that the Borough is happy with the professionalism and work of his firm, particularly after the departure of our CFO. During conversations with Thomas Fallon, he [the Mayor] was informed that Thomas was not a principle in the firm at the time of the improprieties nor was he aware of what occurred in Hudson County. Fallon also said that his firm, under his brother and himself, operates under the highest ethical and legal standards and they are not the subject of any investigation nor do they expect to be. Mayor Donoghue informed Mr. Fallon that the Borough is not wedded to any particular accounting firm and that if any facts come to light, that would cast doubt on that firms conduct, the Borough would not hesitate to do what is right and make a change. The Borough does not expect any such eventuality and continue to have confidence in Fallon & Fallon's efforts on behalf of the Borough.

The Mayor reminded the audience that no unruly behavior would be tolerated during the meeting. Decorum must be maintained so the Boroughs' business may be conducted in an orderly manner.

PUBLIC COMMENT SESSION

Jackie-103 E. Lincoln Ave- thanked the Council for fixing the park on East Ave and noted that she and her friends enjoy palling in it.

Vickie-103E. Lincoln Ave- asked the Mayor and Council to review the residential rebate the Borough offers for construction projects. It is currently \$15, 000.00 over five years and she was told that it could be increased to \$25,000.00 over five years due to the rising housing costs.

Pat Murray-Asbury Ave-asked if anything had been addressed regarding the splitting of E. Lincoln Ave, asking that it be developed into a two lane, one left turn only, one straight and right turn only.

Chief Vasto commented that he did not believe it could be done, but will check with his Traffic Safety Officer and will be report back.

Catherine Franco-Business Owner-speaking on behalf of herself and other architects who are having problems in town. They feel that there is no one, in Borough Hall, to go to, and talk about them. They are not getting services or information, they are getting stonewalled and blackballed. There is no Administrator to go and talk to, who is the head of the community who straightens these things out, and it has been a big issue. She feels it is getting to political and she gets confronted at functions, which she doesn't donate to a political party, and thus she does not get her projects through. This town needs an administrator. She suggests this council sits down, get over the issues of politics and start thinking about this town. We need a new administrator and we need one fast.

Joseph Hawley-Ocean Blvd- questioned agenda items, and remarked that John Phair delegated some one for people to go to in his absence, Robert Dougherty, and he doesn't feel it is inappropriate to get a new administrator while John is sick.

Mayor Donoghue commented that Mr. Dougherty has been a great help during John's absence and has been consulted on a lot of things. He further commented that we are all hoping and praying that John is able to recover and come back.

Mike Rybeck-North Ave-commented that the Borough has done a great job keeping the streets clean as far as the snow goes. He commented that people parking on both sides of the street during a snow storm, you kind of have to zigzag, and was wondering if one side of the road could be designated as a no parking zone during snow emergencies.

Pat Murray commented that the problem with opposite side of the street parking is that almost everybody in town has off street parking, and people would not be happy if they cleaned in front of their house and someone parked there.

Engineer Elliott reported that the Planning Board will be considering the Municipal Stormwater Management Report tomorrow and hopefully it would be adopted. She will issue a formal letter with the update on the Bicycle trail project. The Federal Government has agreed to fund the mitigation portion of this project, however we still need to resolve the issue of trail width, which may result in applying back to the DEP for an individual permit, although all necessary permits have been previously obtained. She also reported that ADA Handicap Ramp Project is under design and she anticipates a June bid advertising date.

Council member Nolan questioned if an as built for the 7th Ave & Memorial Pkwy drainage project had been done. The Engineer mentioned that they might start that when the weather is better.

Council member Fligor asked if she was aware of what was happening on Bayside Dr. and asked her to push them to do something about this. He also asked her if the benches on first Ave could be done prior to closing out the final punch list.

The Engineer explained that the placement of the benches occurred prior to the re-stripping of those spots, there is a possibility of it being done, but it would be a change order.

RESOLUTION 51-2005, Emergency Temporary Appropriations

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:

RESOLUTION 52-2005, TRANSFER OF FUNDS

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:

RESOLUTION 53-2005, PAYMENT OF BILLS

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

Council member Spatola commented that she and Mr. Archibald met with the Attorney and discussed the issues with bills that they had questions about. She asked Chief Vasto if he could explain Mrs. Miller bill for researching the hiring of a Police Officer. The

Chief explained that he did have a brief conversation with her, over the phone, explaining that he had followed all necessary procedures in the hiring of a new officer. Council member Archibald commented that there are some things in this voucher that are definitely covered under her retainer. Council member Fligor commented that he too looked at the bills and he too has concerns. He is Ok with approving the bills as is, but encourages continued talks with the Attorney. Council member Nolan commented that if the talks generate a consensus that a credit of some sort is called upon then they should be amenable to that. Mayor Donoghue expressed his thought that because Mrs. Miller is not present and he doubts Mr. Arnette is familiar with all of the bills that come out of that office, so he fills we need take action with these bill and continue conversations with Mrs. Miller.

This resolution was adopted by the following vote.

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

NAYS:

Council member Ladiana explained the reasoning for deferring Resolutions 054 through 058 and Ordinance 09 until the next meeting.

ORDINANCE 08-2005, AMENDING CHAPTER VII “TRAFFIC” – TIME LIMIT PARKING

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 Fligor and unanimously approved.

PUBLIC HEARING

William Weimer- Spoke on the need of plans for the Harbor addressing the overall problem and meeting the parking needs of the town as a whole. He made an appeal to the Borough Council and the Harbor Commission not to make small, complicating decisions. Council member Archibald asked Mr. Weimer if he was against the Ordinance in general, because it just deals with a small area by the Dockside.

Mr. Weimer felt that it was a step in the right direction, but it cannot stop there. We have to meet the needs of the Shore Casino, the commuters, the boaters and the towns’ people. Cathy Franco- is against the Ordinance because she received a parking ticket in front of her office, because the commuters were parked there, there was no space. She equated it to spot zoning, if you do it for one; they are all going to ask for it. That is a can of worms you are opening, it’s a Pandora’s box.

Mike Rybeck- asked if the parking spaces are a part of the leasehold? And why not make it a part of his leasehold, charge him monthly rental and allow him to do what ever he wants with them.

Council member Fligor asked the Attorney for his opinion as to whether or not it was spot zoning. Attorney Arnette stated that it was not; it is a wholly accurate and appropriate exercise of your Police power.

Mary Wall- 79 Ocean Blvd. asked if there were any plans to put Fred Rast plan in motion for Railroad Ave. Mayor Donoghue explained that his, was just a vision that he would be talking to us again about.

Chief Vasto- commented explained the reason behind the two hour parking, being the commuters come in the morning and park there, and no one has access to it the entire day. They do what they can to accommodate all of the requests in the Harbor. [Senior Center and the Casino] He also explained that New York residents like to leave a car here so they have one available when they come over.

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

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

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

NAYS:

CONSENT AGENDA

- 1) Approval of Minutes: February 9, 2005 Regular Meeting
- 2) Approval of Clean Ocean Actions request for Spring Beach Sweep

The above items were moved as one motion by Council member Nolan, seconded by Council member Spatola and adopted by the following vote.

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

NAYS:

ABSTAIN:

REPORTS - COUNCIL MEMBER, COMMITTEE, PROFESSIONAL

Council member Ladiana reported that mainly she had been working on the Budget and that was mentioned earlier. The Engineer reported on the Stormwater Management Plan that is being presented to the planning board tomorrow evening.

Council member Fligor reported that Library Board elected its new officers: Robert Schoeffling-President; George Whuestoff-Vice President & Treasurer; Secretary-Jane Reynolds. April 10-16 is National Library week. He further reported NJNG would be holding a Public Meeting on May 4th at 7:00pm at the Field House. He noted that the opening at the Borough Garage is much wider due to a Right-of-way agreement obtained from the NJNG Company. He also mentioned a meeting he had with Captain Amici and the need to have a special events committee. He also expressed some concern of being sued. Attorney Arnette agreed that it was good to have event sponsors to issue the

Borough Certificates of Insurance naming them an additional insured. Individually he should not worry because he has substantial immunities for his actions as long as he is acting as an agent for the Borough.

Mayor Donoghue agreed and suggested the formation of the Special Events Committee. He also reported the progress of the clarifier in the Water/Sewer Dept. and the damaged fire hydrant on Ocean Blvd.

Council Member Nolan reported that the Harbor Commission met and they had two issues; 1> the majority voted down their proposal for the Budget and he is unsure as to why; and 2> There was a suggestion to create an RFP for an open slip at the head boats. He mentioned that Tuesday March 22nd is part of Read Across America and encouraged all of the Council members to participate.

Council member Spatola reported that the road crew has been busy in March. Council member Nolan asked if we have exhausted our salt and sand at this point? She was unaware at this time.

Council member Archibald reported on Police activity for the month. Chief Vasto explained Middletown's request to place a 20' antenna on our water tower behind Eastpointe Plaza. Attorney Arnette advised the Council, that the Borough needs to do a Resolution authorizing the placement of the antenna and suggested the clerk prepare one for the next meeting. Council member Ladiana requested that residents within the 200' perimeter be notified. Attorney Arnette informed them that they could do that but are under no obligation to do so.

Attorney Arnette-commented that he would advise Mrs. Miller on the issues discussed earlier.

PUBLIC COMMENT SESSION

Jackie Jones-22 Keystone Dr-understands it is common practice for towns to receive some form of rental for providing space for antenna use and would encourage it since the Police have a need for some equipment, by State mandate. She asked Mr. Archibald if he, as chairman of the Buildings and grounds Committee, has taken any action to address the mold situation in Borough Hall.

Council member Archibald stated that they put \$250,000.00 in the budget to address it.

She also asked what the mission of the Harbor Commission was, and the answer she got was no answer, and she feels that is unacceptable, and would like the Council to consider drafting the mission for the Harbor Commission, so they know what their function and

purpose is. She would also like the Council to consider requesting the Harbor to draft a business plan with performance goals that include revenue projections and plans for improvements, with a budget, and hold them accountable for that.

Joseph Hawley-Ocean Blvd- commented that the mission statement could be found in the Historical Society Museum. He also wanted to know what the next step is since the Harbor Commission voted down the Budget.

The Mayor explained that it in effect the action by the Harbor Commission is a recommendation against adopting it as such.

Mr. Hawley then made some general comments on the Harbor Commission as whole and there increasing returns to the Borough on an annual basis. He feels that overall the members of the Harbor Commission have done a good job over the years, trying to return money to the town.

Council member Archibald asked what the proposed surplus would be in the Harbor?

Council member Ladiana explained how it would regenerate itself over the year to be 800,000-900,000.00.

Mary Wall-heard the reason the commission voted against the budget was because of their inability to bond.

Council member Ladiana stated that was not true and further explained their capacity to bond.

Mickey Rast-49 Eight Ave-asked about the Chambers request to have a Car Show.

Council member Fligor stated that it had not been presented yet.

Acting Clerk Harris explained that the letter was received and sent to Police Captain Amici for consideration.

Mayor Donoghue suggested that himself, the Chamber and the Captain if no one would have any objections and if it is acceptable to Council, to determine what needs to be done to accomplish this.

Mike Rybeck- Sewer Authority- asked if the Borough has a Capital Plan. If so does that it include maintenance or replacement of the pump stations or whatever it might entail?

Council member Ladiana responded yes, but it needs to be reviewed and updated.

Allan Dean-Second Ave- asked about the status of the Cable Franchise Contract.

Mayor Donoghue explained that he would be consulting with Mr. Clifton shortly to discuss the terms of any potential renewal.

Paul Barbados-responded to a letter he received from Attorney Miller, regarding the letter he gave to the Mayor about the problems with the curb.

Mayor Donoghue feels that this was pretty well covered two weeks ago and wondered what new ground if any, we were going to trod.

Mr. Barbado the letter implies that it was his responsibility to know which curb to put in, but it was the recommendations of the engineering staff, and the implication is the he [Mr. Barbado] is not going along with it. He also stated that the asphalt was installed correctly and he now has a trip hazard.

Mayor Donoghue asked him to specifically write down the problem so it could be addressed, but as far as the overall issue, the Council has pretty well determined that the job was done, the money was put out on it and that is the end as far as there being any more work done there.

Mr. Barbado informed the Mayor that recommendations were made to him, that if they could not resolve the situation to go to the Public Advocates Office and the Governors Office.

Jackie Jones-22 Keystone Dr- asked Council member Archibald about the budget item to address the mold problem, if he made the recommendation, as chairman of the Buildings and Grounds Committee, to the Budget Committee for inclusion in the Budget.

Council member Archibald replied, "does it matter, it's in there".

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) The potential hiring of the CFO candidate

Mr. Harris read this resolution in full. It was offered and moved for adoption by Council member Nolan at 9:20 PM, seconded by Council member Fligor and adopted by the following vote.

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

NAYS:

RECONVENE - At 9:27 PM the meeting was resumed.

ADJOURN - There being no further business before the Mayor & Council, Council member Nolan moved to adjourn the meeting at 9:30 PM, the motion was seconded by Council member Fligor and unanimously approved.

The Governing Body approved these Minutes at their meeting on April 13, 2005.

Dwayne M. Harris
Acting Municipal Clerk