



# MINUTES OF THE MAYOR AND COUNCIL REGULAR MEETING OF JULY 27, 2011

The Regular Meeting of the Mayor and Council, of the Borough of Atlantic Highlands, was held on July 27, 2011 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:

**Roll call:** Councilman R Dellosso, Councilman P Doyle, Councilman L Fligor, Councilman J Hoffmann and Councilman R Sutton

ABSENT: Councilman J Archibald [arrived at 8:35pm]

OTHERS PRESENT: Borough Administrator A Hubeny, Borough Engineer D Marks, Mayor F Rast, Borough Attorney B Reilly and Municipal Clerk D Harris.

Mr. 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 with the Municipal Clerk of Atlantic Highlands, on 1/04/2011. He read the "Open Public Meetings Act" compliance statement and stated that formal action would be taken.

## WORKSHOP DISCUSSION:

### **Hanafy – Avenue D Vacation –**

**Kevin Kennedy Esquire**, on behalf of Mr. Hanafy, was present to start the ball on the discussion on the vacation of Avenue D. He presented a handout to the council members as an aid to the discussion. The property is 24 Harborview Dr. and he recently received subdivision approval by the planning board, to divide the lots into two parcels. The borough owns the property next to Mr. Hanafy. During the recent visit to the planning board there was a very general discussion as to whether they should approach the Council and request a vacation of this portion of land and the road road at the end of Avenue D. It was suggested by the borough attorney that we get some type of title work to establish the actual identity of the owner of the property. The borough should consider this vacation because it would eliminate the borough's ownership of the property it would eliminate the borough's liability of the property and the borough's responsibility to maintain the property. It would also give a better subdivision to Mr. Hanafy. If approved Mr. Hanafy would return to the planning board to turn that property into a part of his subdivision. He has had communication with the borough attorney and it was questioned whether his client would pay money for this. Mr. Hanafy has offered \$25,000 for this portion of

Avenue D. The borough's tax assessor has valued the property at \$105,000. Mr. Hanafy has requested an independent appraiser. The borough attorney Riley suggests that be held off until the governing body has actually determined that they desire to move forward with this process.

**Peter Hough** 27 Harborview Dr. commented that he was initially in favor of the subdivision but now the other residents are being asked to surrender their property to waterfront development. We now have a situation where the views to the water are being further eliminated by removing access to the water. It has been mentioned that one of the reasons why eliminating Avenue D was good because of unruly people congregating there. He would argue that that is not accurate and quite often there are family members who gathered there and use that space to admire the view. Even this evening there were a group of bikers standing there enjoying the view. If there were a house placed there the view would be lost.

**Kevin Kennedy** mentioned that the planning board was extremely adamant that they maintain a 40 foot setback although the maximum was 25. If the vacation does happen they would be willing to put in a deed restriction that any re-subdivision plan would honor the 40 foot setback on both sides.

**Mary Wall** 10 Ocean Blvd. is concerned about the cost, she doesn't feel the borough is getting enough bang for our buck. Number two she is a little concerned about giving up any portion of public access. Three she is not certain of what type of riparian rights this would give Mr. Hanafy, and she questions the planning board's authority to give away our roads.

**Kathleen Wigginton** 52 Avenue D commented that if we are perhaps discussing the vacation of the encroachment part to Mr. Hanafy, the McAdam Park would continue public access and for that, then the assessor would have to go back and re-assess the dollars. Peter was fabulous and she totally agrees with everything that they[he and Mary] discussed.

The mayor told Mr. Kennedy that we would be in contact.

**RM It's Metals – First Ave and Hwy #36 – Proposed 7-11 –**

This item was not discussed because the parties were not present.

**CY 2011 Best Practice Inventory Questionnaire -**

Administrator Hubeny commented that this was the second year in a row that Gov. Christie came out with the rest practices worksheet. He will not bore us with the 50 questions asked. What he is happy to report is that we are in compliance with 49 of the 50 requirements which is a score of 98%. The one that we are not in compliance with, which he has spoken to the Fire Chief about, deals with annual heart screening. This means the borough will receive 100% of its State Aid in the year 2012.

**REPORTS – COUNCIL, ADMINISTRATION, PROFESSIONAL, OTHER**

Councilmember Dellosso reported that the summer band concerts have started and reported they are going well. He reported that there is an article in the paper regarding the establishment of the volunteer list that he is working on.

Councilmember Sutton reported that we would be going into executive session to discuss a water issue.

Councilmember Fligor reported on New Jersey Natural Gas and their well five line construction which will begin in about two weeks. Adam and he have asked that they begin on a Monday. In order to get to the contamination in the area the gas company needs to move this line and then they need to put a block, that holds that line in place and run the line into the water department property again. It will take about two days to complete this. He also reported that the finished date on Soden will be in mid September. Also Adam has spoken to the gas company about Jads doing the brick paver work fixing the damage caused by the regulator installation on First Avenue. He reported to Mayor's ball will be held and the money will be donated to the Atlantic Highlands arts Council.

Councilmember Doyle thanked everyone for the time and effort donated to put together the film one festival.

Councilmember Hoffman wanted to bring everyone's attention to the wonderful work the harbor has done with the holidays and the film one festival. He also thanked all of the people who donated extra money to showcase the fireworks that were held this year. He thanked all of the people that came out and helped support the fair sponsored by the firemen.

Mayor Rast commented that he was in Jersey City and he heard about the fire that had broken out and commented that it was put out very quickly. He noted that the fire department as usual doesn't really great job.

Administrator Hubeny reported on the borough Hall construction and mentioned that we really are not where we want to be. We are hoping for the first week in August to move over and move our operations into the new portion already completed. He was asked by the governing body to find out what a fair market value, on the non-conforming piece of property on Simpson Avenue and our tax assessor has put that at \$54,400. That is the piece of property that the habitats for humanity people are interested in. Maybe during the next workshop it can be discussed and have the people from habitat for humanity here. He also mentions the issues with mosquitoes that is being dealt with in the borough and reported on the efforts being utilized by the Monmouth County mosquito commission and the borough to resolve the problem. He mentioned that we had a request from a property

owner that borders the Lenape Woods. The property is physically located in Middletown Township but he wants to fence in his backyard due to a dog issue. He had Mr. Krause and Mr. Curry from our environmental commission go out and talk to the owner and they have a recommendation that he would like for them to present.

Clerk Harris had no report.

Attorney Riley had no report.

Engineer Marks gave a brief report on the construction projects that are being wrapped up in the borough.

Police chief Vasto reported that the police have been very busy. They have two patrol cars that are damaged one was done by an accident and one was vandalized by a prisoner. As a result of this one of his officers is on ODI so we are short two officers.

Jane Frotton from the Atlantic Highlands Harbor commission commented that an RFP for a bait and tackle shop in the harbor will be posted on the website soon. Anyone interested should notify the borough within two weeks and the RFP will be opened on August 26 at 11 AM.

Kathleen Wigginton of the Shade Tree Commission reported that they will be finishing up the streetscape on Avenue C.

James Krause of the environmental commission reported that the trails around the cottage gate development have been or will be installed within the next week. He reported that the three pieces that will connect the Bayshore Trail to Hartshorne Woods are soon to be hooked up and once completed you will be able to walk from the Bayshore Trail directly to Hartshorne Woods. He reported that Mr. Weinberg has begun construction of the peanut stone wall at the Henry Hudson Springs. He also reported that Michael Curry and he met with Mr. Marrione who has issues with dogs running on his property. He wants us to put up a fence but there is some concern with him putting a fence on the borough's property.

## **PUBLIC COMMENTS:**

William Phillips of the Atlantic Highlands fire department gave a brief report on the firemen's fields and their three-week project going on there. He mentioned that the field is closed and locked due to security reasons.

Mary Wall 10 Ocean Blvd. commented that she is not happy with the regulators in front of the Fox Hause and feels that the gas company is a very poor neighbor.

Joseph Hawley 25 Ocean Blvd. spoke on Sen. Doherty's resolution which he does not feel the governing body should move forward with until all necessary corrections have been made to the numbers presented by the Senator.

EdCetron - 1 Auditorium Dr. agreed with Mr. Hawley.

William Phillips - Memorial Parkway, made comments regarding the gas pressure regulators along a First Avenue and offered some suggestions the gas company could utilize to fix that problem.

**UNFINISHED BUSINESS:**

**ORDINANCE 10-2011 - BED AND BREAKFAST ENABLING**

Councilman L Fligor made a motion to open the Public Hearing. It was duly seconded by Councilman R Delloso and was passed by unanimous consent.

**PUBLIC HEARING:**

Ed Cetron Auditorium Drive comment that everyone works hard putting together this ordinance; He feels bed and breakfasts are wonderful thing for this town and do not feel that it would change the character of this town.

Councilman L Fligor made a motion to close the Public Hearing. It was duly seconded by Councilman R Delloso and was passed by unanimous consent.

After a second reading and public hearing, a motion to adopt this ordinance was offered by Councilman L Fligor and was duly seconded by Councilman R Delloso

This motion was passed by the following vote:

<b>Ayes:</b>	Councilman R Delloso, Councilman L Fligor, Councilman J Hoffmann and Councilman R Sutton (4)
<b>Nays:</b>	Councilman P Doyle (1)
<b>Abstain:</b>	None (0)
<b>Absent:</b>	Councilman J Archibald, (1)

**ORDINANCE 11-2011 - BED AND BREAKFAST LICENSING**

Councilman L Fligor made a motion you open the public hearing it was duly seconded by Councilman R Sutton and passed by unanimous consent.

**Public comments**

A motion to close the public hearing was made by Councilman L Fligor and was duly seconded by Councilman R Delloso so in the past by unanimous consent.

After a second reading and public hearing, a motion to adopt this ordinance was offered by Councilman L Fligor and was duly seconded by Councilman R Dellosso

This motion was passed by the following vote:

**Ayes:** Councilman R Dellosso, Councilman P Doyle, Councilman L Fligor, Councilman J Hoffmann and Councilman R Sutton (5)  
**Nays:** None (0)  
**Abstain:** None (0)  
**Absent:** Councilman J Archibald, (1)

**ORDINANCE 12-2011 – AUTHORIZING LEASE OF CAPITAL EQUIPMENT –POLICE VEHICLES**

Councilman R Sutton made a motion to open the public hearing. It was duly seconded by Councilman R Dellosso and passed by unanimous consent.

The public comments:

Councilman R Dellosso made a motion to close the public hearing. It was duly seconded by Councilman L Fligor and was passed by unanimous consent.

After a second reading and public hearing, a motion to adopt this ordinance was offered by Councilman R Sutton and was duly seconded by Councilman R Dellosso

This motion was passed by the following vote:

**Ayes:** Councilman R Dellosso, Councilman L Fligor, Councilman J Hoffmann and Councilman R Sutton (4)  
**Nays:** None (0)  
**Abstain:** Councilman P Doyle (1)  
**Absent:** Councilman J Archibald, (1)

**ORDINANCE 13-2011 – AUTHORIZING THE GUARANTY BY THE BOROUGH FOR MCIA REVENUE BONDS**

Councilman L Fligor made a motion to open the public hearing it was duly seconded by Councilman R Sutton and was passed by unanimous consent.

Public comments

Councilman R Dellosso made a motion to close the public hearing it was duly seconded by Councilman R Sutton and passed by unanimous consent.

After a second reading and public hearing, a motion to adopt this ordinance was offered by Councilman R Sutton and was duly seconded by Councilman R Dellosso

This motion was passed by the following vote:

**Ayes:** Councilman R Dellosso, Councilman L Fligor, Councilman J Hoffmann and Councilman R Sutton (4)  
**Nays:** None (0)  
**Abstain:** Councilman P Doyle (1)  
**Absent:** Councilman J Archibald, (1)

Councilmember Archibald arrived at the meeting 8:35 PM.

**ORDINANCE 14-2011 – ESTABLISHING DESIGNATION OF QUALIFIED PURCHASING AGENT**

Councilman R Dellosso made a motion to open the public hearing it was duly seconded by Councilman J Hoffmann and passed by unanimous consent.

Public comment:

A few members of the public expressed their approval of the intended QPA to be appointed to this position.

Councilman R Dellosso made a motion to close the public hearing it was duly seconded by Councilman R Doyle and was passed by unanimous consent.

After a second reading and public hearing, a motion to adopt this ordinance was offered by Councilman R Sutton and was duly seconded by Councilman R Dellosso

This motion was passed by the following vote:

**Ayes:** Councilman J Archibald, Councilman R Dellosso, Councilman P Doyle, Councilman L Fligor, Councilman J Hoffmann and Councilman R Sutton (6)  
**Nays:** None (0)  
**Abstain:** None (0)  
**Absent:** None (0)

**NEW BUSINESS:**

**ORDINANCE 15-2011 – AMENDING THE SALARY ORDINANCE 01-2011**

A motion to approve this ordinance was offered by Councilman R Sutton and was duly seconded by Councilman P Doyle

This motion was passed by the following vote:

**Ayes:** Councilman J Archibald , Councilman R Dellosso, Councilman P Doyle, Councilman L Fligor, Councilman J Hoffmann and Councilman R Sutton (6)  
**Nays:** None (0)  
**Abstain:** None (0)  
**Absent:** None (0)

Public Hearing and possible adoption is scheduled for August 17, 2011.

**CONSENT AGENDA** - These items will be enacted by one motion. If detailed deliberation is desired on any item, Council can remove that item from the consent agenda and considered it separately.

- i. Resolution 105-2011 – 2011 Municipal Recycling Grant
- ii. Resolution 106-2011 – Granting License for Location of Borough Entry Sign
- iii. Resolution 107-2011 – Amending Resolution 104-2011
- iv. Resolution 108-2011 – Approving Change Order #41 – Santorini Construction
- v. Resolution 109-2011 - Approving Change Order #42 – Santorini Construction
- vi. ~~Resolution 110-2011 – Granting Extension of Time to Santorini Construction Inc~~  
[REMOVED FROM CONSENT AGENDA]
- vii. Resolution 111-2011 – Supporting the 2012 Municipal Alliance Program
- viii. Resolution 112-2011 – Appointing QPA
- ix. Resolution 113-2011 – Providing Third Quarter 2011- Tax Grace period
- x. Resolution 114-2011 – Payment of Bills
- xi. ~~Resolution 115-2011 – Supporting Fair and Equal School Funding~~  
[REMOVED FROM CONSENT AGENDA]
- xii. Resolution 116-2011 – Authorizing Merchant Processing Agreement – Municipay
- xiii. Resolution 117-2011 – Awarding Contract – Miscellaneous Hardware
- xiv. Resolution 118-2011 – Authorizing Bid – Sanitation Truck

A motion to approve all items in the consent agenda was offered by Councilman R Dellosso and was duly seconded by Councilman L Fligor

This motion was passed by the following vote:

**Ayes:** Councilman J Archibald, Councilman R Dellosso, Councilman P Doyle, Councilman L Fligor, Councilman J Hoffmann and Councilman R Sutton (6)  
**Nays:** None (0)  
**Abstain:** None (0)  
**Absent:** None (0)



**RESOLUTION 110-2011 – GRANTING EXTENSION OF TIME TO SANTORINI CONSTRUCTION INC**

A motion to table this resolution was offered by Councilman L Fligor and was duly seconded by Councilman R Dellosso

This motion was passed by the following vote:

**Ayes:** Councilman J Archibald, Councilman R Dellosso, Councilman P Doyle, Councilman L Fligor, Councilman J Hoffmann and Councilman R Sutton (6)

**Nays:** None (0)

**Abstain:** None (0)

**Absent:** None (0)

**RESOLUTION 115-2011- SUPPORTING FAIR AND EQUAL SCHOOL FUNDING**

A motion to table this resolution was offered by Councilman L Fligor and was duly seconded by Councilman R Dellosso

This motion was passed by the following vote:

**Ayes:** Councilman J Archibald, Councilman R Dellosso, Councilman P Doyle, Councilman L Fligor, Councilman J Hoffmann and Councilman R Sutton (6)

**Nays:** None (0)

**Abstain:** None (0)

**Absent:** None (0)

**PUBLIC COMMENT SESSION –**

NO ADDITIONAL COMMENTS WERE MADE.

**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-** Litigation – COAH
2. **Item** – Litigation – AH/HRSA vs TOMSA
3. **Item** – Property Negotiations – Vacation of Avenue D / Hanafy
4. **Item** - Contract Negotiations – PBA
5. **Item** – Contract Negotiation- Santorini Construction – Extension of time

July 27, 2011

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 to go into Executive Session to discuss the above items and the public is excluded from this meeting.

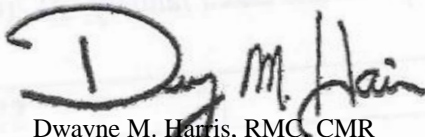
**ADJOURN** – { 10:48pm } there being no further business before the Mayor and Council, Council member Hoffmann made a motion to adjourn. It was duly seconded by councilmember Fligor and was approved by unanimous consent.

A motion, to approve these minutes, was offered by Councilman J Hoffmann and was duly seconded by Councilman P Doyle.

This motion was passed by the following vote:

<b>Ayes:</b>	Councilman J Archibald, Councilman R Dellosso, Councilman P Doyle, Councilman L Fligor, Councilman J Hoffmann and (5)
<b>Nays:</b>	None (0)
<b>Abstain:</b>	None (0)
<b>Absent:</b>	Councilman R Sutton (1)

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 September 14, 2011.



Dwayne M. Harris, RMC, CMR  
Municipal Clerk