

MINUTES

SPECIAL MEETING, TUESDAY, DECEMBER 22, 2009 AT 7:00 P.M. OR AS SOON THEREAFTER AT BOROUGH HALL

OPEN PUBLIC MEETINGS ACT.

BOROUGH CLERK: this meeting is being held in accordance with the rules and regulations of the Open Public Meetings Act of the State of New Jersey. Adequate notice of this meeting was provided by forwarding a Sunshine notice which included the time, date and location of this public meeting of the Mayor and Council.

ROLL CALL:

COUNCIL MEMBERS: Councilman Bianchi, Councilman DiBlasi, Councilman Granell, Councilman Hughes, Councilman Tanelli and Councilman Yampaglia

ALSO PRESENT: Mayor Peter C. Massa, Borough Clerk, Terence M. Wall, Borough Attorney, Anthony D'Elia

Councilman Hughes – Mr. Mayor. There seems to be a question whether this meeting was properly advertised, could maybe the Clerk provide proof that this meeting was properly advertised so we are not conducting an illegal meeting here?

Mr. Wall – I can confirm I spoke to Deputy Clerk Cathy Keogan this afternoon and reviewed the word document that was sent to the local media regarding the meeting of today. We have not received the tare sheet back yet, but she confirmed for me that she advertised it for the Saturday printing of the Record although that is not mandatory by State law, we are just required to send it to the local media.

Mr. D'Elia – I have not looked at anything. I assumed that is accurate? Objection is noted if it was improperly advertised then you may have to reconvene right after the holidays but we can always check that later.

Mayor Massa – Members of the audience please refrain from commenting until the hearing of citizens.

Mr. D'Elia – I am just commenting on what the Borough Clerk just stated and that is all I have to say.

Councilman Hughes – Have Cathy look into it and see that we did properly constitute a meeting.

Mr. Wall: I would recommend that we take a five minute recess and I will put the files from the files that Ms. Keogan indicated.

Mr. D'Elia – Proceed with the meeting and we will look at it after the meeting and we will address it before anyone goes home.

PLEDGE OF ALLEGIANCE

PUBLIC COMMENTS

No citizen wished to be heard

MOTION TO CLOSE PUBLIC COMMENTS

INTRODUCED BY: Councilman Tanelli

SECONDED BY: Councilman Hughes

ROLL CALL: All council present vote in the affirmative

ABSENT: Councilman DiBlasi

APPROVAL OF MINUTES

June 11, 2009
July 9, 2009
August 13, 2009
September 10, 2009
November 12, 2009

MOTION TO APPROVE MINUTES

INTRODUCED BY: Councilman Tanelli
SECONDED BY: Councilman Granell
ROLL CALL: All council present vote in the affirmative
ABSENT: Councilman DiBlasi

RESOLUTIONS ON CONSENT AGENDA

Councilman Hughes requested that each resolution be dealt separately.

R-254-09 RESO RE: AUTHORIZATION TO PAY CLAIMS

INTRODUCED BY: Councilman Tanelli
SECONDED BY: Councilman Yampaglia
ROLL CALL: All council present vote in the affirmative
ABSENT: Councilman DiBlasi

R-255-09 RESO RE: APPROVAL OF PURCHASES OVER \$3,000.00

INTRODUCED BY: Councilman Granell
SECONDED BY: Councilman Bianchi
ROLL CALL: Councilman Bianchi, Councilman Granell, Councilman Hughes, (with exception of Fire Department purchases for which I recuse myself)
Councilman Tanelli, Councilman Yampaglia
ABSENT: Councilman DiBlasi

R-256-09 RESO RE: APPROPRIATION CANCELLATIONS

INTRODUCED BY: Councilman Yampaglia
SECONDED BY: Councilman Hughes
ROLL CALL: All council present vote in the affirmative
ABSENT: Councilman DiBlasi

R-257- 09 RESO RE: ACCEPTANCE OF RESIGNATION/APPOINTMENT OF REPRESENTATIVE TO JOINT MEETING

INTRODUCED BY: Councilman Tanelli
SECONDED BY: Councilman Yampaglia
ROLL CALL: AYES: Councilman Granell, Councilman Tanelli, Councilman Yampaglia
NAYS: Councilman Bianchi, Councilman Hughes
ABSENT: Councilman DiBlasi

Councilman Hughes – I see this Resolution that Councilman Granell is resigning from the Joint Sewer Commission, I fail to see what this accomplishes since traditionally the appointment to the Joint Sewer Commission would run concurrent with the Councilman’s term, so by him stepping down now any replacement would only be serving until the end of December. So to make this appointment now is just seems to be a waste of time and effort.

Mayor Massa – I will defer to legal counsel on that.

Mr. D’Elia – I think I issued a letter of opinion to the Mayor and to Terence.

In 1954 North Arlington entered into a Joint Meeting/joint venture with Lyndhurst to run the Sewer system that we now call the Joint Meeting so it's been a long period of time. That was according to a certain statute. According to that statute, members of the joint meeting must be members of the governing body. There is no, now this resolution I did not draft, I just heard about it at the last minute. There is no term for members. If you are a member of the body, you're entitled to participate in the past practices it's been the mayor who appoints members to the joint meeting and that's essentially what my letter said. So there's no term like the zoning board or planning board has for the statute. You do have to be a member of the body to be a member a representative to the joint.

Councilman Hughes – correct. But I also, I think researching back, I've seen where the appointment to the joint sewer was the mayor's nomination with council approval.

Mr. D'Elia – I can only speak from my experience in the last three years here because I haven't seen any previous resolutions under Mayor Pitman or Kaiser or back to 1954. If you have other resolutions that say something different than you have that, I don't, haven't seen them. I can only tell you what I've seen here in the three years and what I've been told past practice with.

Mayor Massa – I cant answer your question counsellor. In light of the fact that the mayor of Lyndhurst is a member of the body, I feel as the mayor of this community, in order that we have equal status representation of each mayor on the panel that I appoint myself to this position at this time.

Mr. D'Elia – he's a member now?

Mayor Massa – yes.

Mr. D'Elia – he wasn't a few months ago.

Councilman Tanelli – he attended the last two meetings. He's officially taking over for Joe Ivascado, commissioner Ivascado. But it was in a delicate nature of all the repairs that need to be done and how there was some issues where Encap money was given to the joint sewer to replace pumps and whether that repairs were done properly or not. Actually Lyndhurst commission actually hired an auditor to audit books for the joint sewer and the audit report came out last month and he feels that its important that old mayor sits on the board. So that's where it came from.

Councilman Hughes – I still think its not proper the way we've been doing things over the past and I think this is just an attempt to skew things up by the end of the year here.

Mr. D'Elia – well I'll be gone January.

Mayor Massa – any changes that could be, would be made, were not bound to do things as they always have been done. We have an opinion from the attorney that essentially permits any member of the body from sitting there as I put my position there. I feel its my responsibility to be part of that meeting right now in light of the fact that the mayor of Lyndhurst is in fact sitting there. Any further discussions? Call the roll.

R-258- 09 RESO RE: ACCEPTANCE OF RESIGNATION/APPOINTMENT OF ZONING BOARD MEMBER

INTRODUCED BY: Councilman Granell

SECONDED BY: Councilman Yampaglia

ROLL CALL: AYES: Councilman Granell, Councilman Tanelli, Councilman Yampaglia
NAYS: Councilman Bianchi, Councilman Hughes

ABSENT: Councilman DiBlasi

Councilman Hughes – I had asked at the last council meeting that administrator Wall, borough clerk Wall, research all of the recent appointments that have been made over the last three or four years to the various boards, planning and zoning, and ascertain when people have been appointed, when their terms have expired and everything. I'd like to ask borough clerk there if Mr. Wall if that has been done yet and completed.

Terence – in regards to planning board appointments, zoning board appointments, or both?

Councilman Hughes – both.

Terence – we've begun the process of reviewing the resolution books and the ordinance books and had file bank send over whatever outstanding books there are. We've gone through several years of records thus far and in regard to the planning and zoning, I had certainly relied on Mr. Sarlo and his history on being on the planning board and zoning board attorney. So it appears that certain items are order as far as certain members and their terms as far as in the totality the reviews not completed from my perspective. The question is whether or not I've completed my review of all the relevant resolution, ordinance books going back in time; I don't have the history to opine on that.

Councilman Hughes – the reason I question Mr. Mayor, we're appointing Joseph Burzinski tonight to the planning board as class 4 to the class due member. Mr. Burzinski was appointed to the zoning board on twelve thirty, I'm sorry at the January '07 reorganization meeting to a term that expires 2010 on 12/31 2010. We already have one member who's a member of both the planning and zoning board and we're only allowed one member to serve in both positions so how can we be appointing this person as a class 2 member to the planning board when I've never seen a resignation for him from the zoning board. We also have Joseph Sheedy

Tony D'Elia – What name was that?

Councilman Hughes – Joseph Burzinski.

Terence – just briefly, Joseph Burzinski, he did resign from that board approximately six months ago or so. I'd have to check the dates on that but he did submit a letter of resignation regarding his status on the planning board as a class 2, again I would defer to Mr. Sarlo but he did just to clarify he did formally resign from the zoning board. He was advised that as an employee you cannot be a member of the zoning board for local ordinance and subsequent to that he did resign.

Tony D'Elia – and in a resolution tonight he's not one of the members of the zoning board; the reaffirmation resolution. He's only planning.

Councilman Hughes – well that's what I'm saying. There seems to be questions here. I also have a Joseph Sheedy who was appointed as an alternate in 12/31/08 and then I think reappointed in '09 as an alternate member and I don't see his name appearing on as an alternate member on the zoning board.

Tony D'Elia – he's a regular member according to the investigation that was done by Mr. Sarlo.

Councilman Hughes – when did it change? How do you go from alternate member to regular member?

Tony D'Elia – I know this happened at the last meeting. My recommendation is this that you vote on these resolutions. If the investigation turns up facts that are different, your certainly free to pass resolution next year to correct it. I think you have to act because as this issue came up, Mr. Sarlo spend a lot of time dealing with Terence. I went through my entire files and basically the only thing that I found was the agenda, I think that was prepared by Tim Roberts in January of 2007 which addresses a lot of the names that are in these resolutions. So I think you want to start with a base and if you find facts that are different, you're certainly free to correct them via resolutions in the future. That's true at any point.

Councilman Hughes – okay, my concern is though that if we constitute a planning and zoning board then we have members on there that don't belong there. we have members on there that weren't properly appointed and [inaudible] on these boards that it would put any rulings that they make at risk.

Tony D'Elia – well it wouldn't do that but if you certainly find, because they acted as defacto members and they acted under the apparent authority to act as zoning and planning board members. But if you find those facts and there's none here tonight and there's none here at the

last meeting, if you find facts, that'd back up anything that you say than you'll propose a resolution and you'll fix it immediately. And that's the best you can do at anytime because not just here in North Arlington but there are times when mistakes, record keeping mistakes, happen.

Mayor Massa – call the roll.

R-259-09 RESO RE: ACCEPTANCE OF RESIGNATION/APPOINTMENT OF PLANNING BOARD MEMBERS

INTRODUCED BY: Councilman Tanelli
SECONDED BY: Councilman Granell
ROLL CALL: AYES: Councilman Granell, Councilman Tanelli, Councilman Yampaglia
NAYS: Councilman Bianchi, Councilman Hughes
ABSENT: Councilman DiBlasi

R-260-09 RESO RE: REAFFIRMATION OF PLANNING BOARD APPOINTMENTS

INTRODUCED BY: Councilman Granell
SECONDED BY: Councilman Yampaglia
ROLL CALL: AYES: Councilman Granell, Councilman Tanelli, Councilman Yampaglia
NAYS: Councilman Bianchi, Councilman Hughes
ABSENT: Councilman DiBlasi

R-261-09 RESO RE: REAFFIRMATION OF ZONING BOARD APPOINTMENTS

INTRODUCED BY: Councilman Granell
SECONDED BY: Councilman Yampaglia
ROLL CALL: AYES: Councilman Granell, Councilman Tanelli, Councilman Yampaglia
NAYS: Councilman Bianchi, Councilman Hughes
ABSENT: Councilman DiBlasi

Terence – next item on the agenda is discussion of requests for proposals and requests for qualifications.

DISCUSSION OF RFP/RFQ'S

Mayor Massa – at this time I'll open up the floor to any member of the council who wants to make a comment on the RFQ's that were received by mayor and council as advertised for review. This is essentially an advisory conference and...

Tony D'Elia – because no action can be taken on these until next year.

Mayor Massa – no action will be taken on these until the new council is seated but its essentially advisory whereby gives every member of the council opportunity to comment on the review of the RFQ's as we received them so far for the benefit of all the members here so if anybody has any questions or any discussions with respect to or questions regarding specific qualifications or credentials on any the professionals that have submitted these RFQ's, the floor would be opened for comment.

Councilman Tanelli – there were some RFQ's sent out with specific instructions on salary range for more specifically the borough attorney. I want to know are we re-advertising for borough attorneys to apply or are we disqualifying the three in particular that did not submit salary requirements.

Mayor Massa – well as I recall, essentially some of these were open ended. Some of the professionals did not provide an hourly rate as others did and that might be a reason for wanting to review them further or take a second look at the individual just to see whether or not these rates are in the ball park for professional services.

Tony D'Elia – again that's something you would have to next year anyhow, right?

Councilman Tanelli – I understand that but what I want to try and do tonight the reason I requested this meeting last meeting was to discuss possibly who might be getting appointed, go over so that come January when the appointment process come like I said at the last meeting I wanted to have the opportunity to support whatever decisions the majority makes in January rather than oppose the decisions so tonight's meeting was basically to allow who possibly might get the job, who do you think should have the job so that we can have an open honest discussion so that didn't have to happen in January at the reorganization meeting when it's supposed to be a night of celebrating the new guys getting in and moving forward to town business so obviously nobody has anything to say so I guess this meeting was a colossal waste of time.

Mayor Massa – with respect to borough attorney, any members of the council have any questions with respect to the submissions presented so far.

Councilman Hughes – I think the submissions were done without a price range because the advice of attorney D'Elia said that we had a firm ordinance in place. I believe that was the instruction.

Tony D'Elia – you have a salary ordinance in place that ranges the borough attorney from 60 to \$85,000 for salary and then also your salary ordinance says and in accordance with any RFP's that are submitted. I was told on all of the RFP's and RFQ's that there was a desire to leave it opened so that anybody could submit whatever salary they wanted to submit. That was the understanding that I was given. Frankly, I don't even know, I know I put in for interim council according to that case, I'm not even sure that I put in a salary or a quote; I forget to be honest with you.

Councilman Tanelli – you were being disqualified.

Tony D'Elia – I've been disqualified.

Mayor Massa – any questions?

Councilman Bianchi – just one question I have. When was that ordinance passed?

Tony D'Elia – well which one, the original salary ordinance?

Councilman Bianchi – yes.

Tony D'Elia- the original salary I have no idea. You always had a salary; you had a salary ordinance when I came here in January of '07. It was amended I think in that year, it was amended to basically it changed. We had to get a lot of numbers not just for the attorney but for the other positions up to date because they were old and they were out dated.

Councilman Hughes – we did a salary range ordinance back in 2008.

Tony D'Elia – and I think by the time we adopted it you were already on the council 2008. I have it in the office.

Councilman Hughes – it was done in 2008. It says ranges.

Tony D'Elia – not just for the attorneys but for all the positions. And they all had to be upgraded because they were old.

Councilman Hughes – yeah, [inaudible], defense attorneys.

Tony D'Elia – Tim Roberts was here when we started.

Mayor Massa – any questions or comments on any of the firms or individuals that have been submitted? If not we can pretty much close us out.

Tony D'Elia – before anybody leaves, before we adjourn, why don't I go back to Terence and he can show me the advertisements you've never seen and we can see if it was advertised for the court date.

Terence – well just for the record, you're not required by law to advertise it. You're required to transmit it within 48 hours and the word document and by phone conversation with Cathy Keogan today, she had indicated and I've seen the word document that indicated the correct date and time. Now if the Record or if it was published with the incorrect date and time, well I'd refer to, that would be a legal question that I cant answer right now.

Councilman Tanelli – I make a motion to take a 10 minute recess for [inaudible].

Councilman Bianchi – before we do this, what is this?

Terence - were investigating a situation regarding, councilman Bianchi is holding up estimates regarding a plumbing situation with an area resident. We are investigating a situation regarding a sewer backup that had created damages in a home and we're establishing what liability the borough may or may not have.

Councilman Granell – is that the [inaudible] residents?

Terence – I was not using names. The 61 Argyle was the street. And we are investigating the issue and we'll report back to the council accordingly.

Councilman Bianchi – so that's good enough for me.

Mayor Massa – okay council, thank you.

Tony D'Elia – alright, everyone wait, I'll walk with Terence, we'll come back. [break]. Back on the record. Okay.

Terence – at 7:25 p.m.

Tony D'Elia – noting that I did not see the Bergen Record advertised. Mr. Wall went back on the computer, immediately pulled out the document that his office has forwarded to the Record on December 16th asking that they publish in the Friday December 18th edition of the Record public notice that there will be a special meeting of the mayor and council for December 22nd at 7:00 p.m. Formal action may or may not be taken. So being advised that this was the letter sent to the Bergen Record, I think it was a proper [inaudible].

Mayor Massa – thank you counselor.

Terence – and just for the record, I will contact the Record in the morning and identify where the breakdown was in communication if in fact they did print the wrong ad. But this was the document that it was represent that Cathy Keogan be properly sent in.

ADJOURNMENT:

MOTION TO ADJOURN

INTRODUCED BY: Councilman Hughes
SECONDED BY: Councilman Yampaglia
ROLL CALL: All council present vote in the affirmative
ABSENT: Councilman DiBlasi