



MINUTES OF THE MAYOR & COUNCIL REGULAR MEETING OF JULY 13, 2004

The Regular Meeting, of the Mayor and Council, of the Borough of Atlantic Highlands was held on July 13, 2004 in the public meeting room of Borough Hall, 100 First Avenue, in Atlantic Highlands NJ

Mayor Donoghue called the meeting to order at 8:00 PM. After a silent prayer and the Pledge of Allegiance, the following roll call was taken: Council members Archibald, Fligor, Ladiana, Nolan and Spatola. Borough Attorney Miller, Borough Engineer Elliott, Acting Borough Administrator Dougherty and Acting Municipal Clerk Harris were also present. Council member Niles arrived at 8:10pm.

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 June 24, 2004. He read the "Open Public Meetings Act" compliance statement and stated that formal action would be taken.

Mayor Donoghue noted that Administrator Phair is Home and doing well, and the Mayor himself will be having knee surgery tomorrow. He noted that we were in receipt of a Certificate of Appreciation by the Marine Corp League for loyalty and patriotism to the Country exemplified by publicly and proudly displaying the United States Flag.

PUBLIC COMMENT SESSION

John White-32 Center Ave- was wondering and was concerned about the rumors heard around about the Hovnanian development and wanted to know if there was any community input on the matter.

Mayor Donoghue informed Mr. White that there was one public meeting, before the first of the year, on the concept that the previous administration has developed. Since January the Advisory committee had been appointed and have been meeting, reviewing and investigating various issues, but as far as Hovnanian goes there is nothing formal. A Hovnanian representative has been invited here on the 28th of July, to make a presentation to the Council and the community on the proposal for the old McConnell property on Ave D.

Edward Cetron-1 Auditorium Dr- Commended the fireworks committee on the spectacular fireworks, but again a lot of them fell into his yard. We need to readjust and fine-tune our plan so that productive changes can be made. He requested to be on the Fireworks Committee. Council member Spatola invited his participation.

William Phillips-Memorial Pkwy-as VP of the Fire Dept thanked the Mayor and Council for all of the assistance they received during the fair and during the fireworks.

Adam Hubeny-Fair Coordinator- echoed Mr. Phillips sentiments and added his appreciation to the Police Dept, the Road Dept, the ladies and Dwayne at Borough Hall. The Fireworks night was a banner, record night and again thanked everyone for his or her help.

Donna King-51 Ocean Blvd-feels the Council needs to take action on a plan as to what First Ave needs to look like, to work like and to be like. There is a situation with Goodies being ticketed for not taking in their tables at night. As far as can be seen, there is no written Ordinance stating that tables and chairs have to be taken in at night, from in front of eating establishments. There either has to be an Ordinance or not an Ordinance...we need to be fair to every business in town and it just can't be up to an individual or a Police person to say I don't think this is going to be safe.

Cindy Drascall-55 Third Ave-feels it is a personal attack on her behalf because of where the information is coming from. She feels as if the town is totally against her. Her tables and chairs are not harming anyone. There is five feet in between, which is the Ordinance for handicapped. [Passed out pictures to Council members]. She doesn't think it is fair and feels she is being severely punished by Jerry Vasto and Bernie Frotton, and she is sick of it and thinks it should stop. If we are going to give her a ticket she wants an Ordinance and thinks we should pass something. She has tried for the past year to do something really nice.

Bernard Frotton- Code Enforcement Officer-explained the complete situation, as it has existed for many years, on First Ave. It was a decision by the Chief, who gave him a letter, and he (Mr. Frotton) made a flier and visited every business on First Ave. No one whatsoever was singled out. The Chief had determined that it could create a hazardous situation with chairs and tables on the edge of the curb, and it was a suggestion between the two of them that these tables and chairs should be removed at the close of business for the safety of the people on First Ave, and the prevention of accidents which have happened in the past. As our Ordinance goes, what isn't written in our Ordinances is not allowed. That's the Law and that's how it is written. The reason there is no code is because they went and visited all of the people that had tables and chairs and asked them if they would please remove them in the evening, and everyone has cooperated except in this single situation. *Mr. Frotton shared different aspects from Ordinances in place in other communities.*

Council member Fligor asked if the tables were in violation of any Fire Codes?

Mr. Frotton responded that if there were a fire during the day they would be there... but if an ambulance were to pull in, they would hit the umbrellas.

Mayor Donoghue noted that this was an active case before the court and the judge would make a decision, most likely.

Ms. Driscoll stated that the judge didn't want to make the decision, and that is why he postponed it till after the council made the decision.

Mayor Donoghue said he had received no communications from the Judge on that issue.

Council member Nolan feels Goodies is the best thing that happened in town for quite some time, she has given to everyone... the place looks alive. It is the only place for our young teens to go and sit and have an ice cream and talk to each other, plus she has given them the opportunity to work there. He feels it is a shame that this has to keep coming up. She has too many tables, many she can take out a row but to get rid of them all together, that is ridiculous, and what everyone knows is that if you want her to take it in at night, what your really telling her is to get rid of them.

Council member Fligor disagreed, and noted that every other business is compliant.

Council member Ladiana added to the sentiment of Council member Nolan.

Thomas King-51 Ocean Blvd- wanted the Borough to draw up an Ordinance telling Jerry Vasto and the Police Dept that civil matters are none of their business in this town and that the town will decide what is appropriate business. He also feels it is nice to have people sit around those table and wants the Council to stand up and let Jerry Vasto know what his duties are, which is to serve and protect, end of conversation.

Mayor Donoghue feels, the best the council can do is to consider this and the comments made here.

Capt. Amici, on behalf of Chief Vasto who was not present, commented he [the Chief] didn't issue the summons, Mr. Frotton issued the summons and we [the Police] don't issue summonses on civil matters but it was a safety concern and that is why he was asked to get involved.

Jackie Jones -22 Keystone Dr- thinks everyone shares the common goal of progress and forward motion, that being said, wonders if in the spirit of community we can work out some compromise in a manner that would least effect people, cars etc etc.

Cecilia Sullivan-53 Third Ave- commented that we are only talking about summer months and the tables will not be out there in the winter, and this is really vital to the business' success.

Richard DeConsenzo-32 Center Ave-was looking for information about Hovnanian building two four story buildings, which would require a varience, and he was there to speak out about granting a variance.

Mayor Donoghue informed Mr. DeConsenzo that the area is not zoned for that type of construction, and he didn't have a whole lot of information because Hovnanian has not formally or informally presented anything to us, but the Council will keep the public informed, as best as they can, if and when a proposal is made.

Sara Chiles-59 Third Ave- wanted to speak out in support of Cindy Driscoll and echoed the sentiments of Council member Nolan, and feels speeding on First Ave is a bigger issue.

Denis Jaspan-3 Rosewood Terr.- thinks what Cindy is doing with the tables is good and the Council should work with the businesses. He also wanted to know about the street drainage project and what was going on with that. Attorney Miller stated that the Borough was working on that.

Thomas King-51 Ocean Blvd- has grass growing down the middle of his street and questioned plans to do anything about this. Mayor Donoghue referred this matter to DPW Director Robert Dougherty.

Mayor Donoghue does not believe that anyone is picking on Goodies or any other business in town, but the suggestions made here for possible compromises were very much worthy of considering and he can assure all, that the council will soon discuss it seriously.

Council member Archibald stressed that she does have a court date and we should decide this quickly. Mayor Donoghue states that we will find out the status, with the judge, to determine his [the judge] position.

Paul Barbado-22 Lawrie Road- the construction at 20 Lawrie Rd. has been stopped and now there is a giant mud hole. Since the stoppage there has been a lot of rodents, animals and critters running wild, and his concern is that this is going to drag on for two years. He wants to know how we can get the contractors the permits and get the contractor to do what he has to do to get the building constructed.

Mr. Frotton stated that they had been given a violation and has ten days to respond and apply for a steep slope permit, and an architect is supposed to put all of the work together and have it in Mr. Frotton office in ten days. The County Health Dept had been called and visited the location to determine a fix for the rodent problem.

Mayor Donoghue closed the Public Comment session.

RESOLUTION 110-2004, RELEASE OF MAINTANENCE BOND FOR ATLANTIC SELF STORAGE

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

This resolution was adopted by the following vote.

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

NAYS:

RESOLUTION 111-2004, ADOPTING THE EMERGENCY OPERATIONS PLAN

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

Mr. Archibald thanked Mr. Hubeny for an excellent job. Mr. Hubeny explained there are 18 annexes on how this Borough will operate in an emergency situation. It has been 14 years since it's redoing.

This resolution was adopted by the following vote.

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

NAYS:

RESOLUTION 112-2004, TRANSFER OF BOROUGH EMPLOYEES

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

DPW Director Robert Dougherty outlined the positions being transferred.

This resolution was adopted by the following vote.

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

NAYS:

RESOLUTION 113-2004, CHAPTER 159-ALCOHOL REHAB ENFORCEMENT FUND

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

This resolution was adopted by the following vote.

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

NAYS:

RESOLUTION 114-2004, CHAPTER 159-CLEAN COMMUNITIES

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 members Ladiana, Fligor, Nolan, Niles, Spatola and Archibald

NAYS:

RESOLUTION 115-2004, RENEWAL OF LIQUOR LICENSE- BEL VESUVIOS

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 Ladiana, Fligor, Nolan, Niles, Spatola and Archibald
NAYS:

RESOLUTION 116-2004, RESCIND RENEWAL OF THE BLUE BAY INN LIQUOR LICENSE

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

This resolution was adopted by the following vote.

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

RESOLUTION 117--2004, RECOGNIZING SAME-SEX DOMESTIC PARTNERSHIPS FOR PENSION PURPOSES

A motion was made to table by Council member Archibald and seconded by Council member Spatola.

Attorney Miller explained the Resolution. After discussion by various members of the Council it was tabled until the Council has had an opportunity to discuss it.

This resolution was tabled by the following vote.

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

RESOLUTION 118-2004, ACCEPTING \$6,822 GRANT FOR STORMWATER REGULATION PROGRAM

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

This resolution was adopted by the following vote.

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

RESOLUTION 119-2004, PAYMENT OF BILLS

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

Council member Archibald feels we really need to take a hard look at what we spend on legal fees. Mayor Donoghue had previously asked the committee chairman to review and discuss this situation. Personnel and Finance Chair Ladiana agrees and feels that it needs to be addressed.

This resolution was adopted by the following vote.

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

ORDINANCE 09-2004, AMENDING CHAPTER 2-ADMINISTRATION- OF THE REVISED GENERAL ORDINANCES

After some question as to the need of this Ordinance, due to the tabling of Resolution 117-2004, Acting Clerk Harris explained the reason why this Ordinance amendment needs to move forward, explaining that the Borough would be responsible to pay the \$25.00 State fee for Domestic Partnerships that are registered if the fee is not included in our Ordinances.

This Ordinance was read by title. It was moved for Introduction and First Reading by Council member Nolan, seconded by Council member Niles and was approved by the following vote.

AYES: Council members Ladiana, Nolan, Niles and Spatola

NAYS: Council members Fligor and Archibald

It shall be published in an official newspaper and a public hearing shall be held on July 28, 2004.

ORDINANCE 10-2004, AMENDING CHAPTER 21-STREETS AND SIDEWALKS-OF THE REVISED GENERAL ORDINANCES

Council member Fligor gave a brief summary of the services provided by National Geomatica and offered his support of these efforts.

This Ordinance was read by title. It was moved for Introduction and First Reading by Council member Nolan, seconded by Council member Niles and was approved by the following vote.

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

NAYS:

It shall be published in an official newspaper and a public hearing shall be held on July 28, 2004.

ORDINANCE 11-2004, AUTHORIZING THE ESTABLISHMENT OF THE LOSAP

Council member Nolan gave a description and history of the LOSAP throughout the State, and gave honor to the Fire and First Aid squad and expressed his hope for the public's support. Council member Archibald asked what this would have cost the Borough last year based on the call history. That figure is unknown due to the recent establishment of the point system and no calculations have been done in that regard. It is projected to cost \$65,00.00 a year, and was designed to encourage, promote and reward volunteerism as well as serve as a management tool to get people to do what is needed for them to do.

This Ordinance was read by title. It was moved for Introduction and First Reading by Council member Archibald, seconded by Council member Spatola and was approved by the following vote.

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

NAYS:

It shall be published in an official newspaper and a public hearing shall be held on July 28, 2004.

ORDINANCE 12-2004, AMENDING CHAPTER 7-TRAFFIC-OF THE REVISED GENERAL ORDINANCES

This Ordinance was read by title. It was moved for Introduction and First Reading by Council member Niles, seconded by Council member Spatola and was approved by the following vote.

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

NAYS:

It shall be published in an official newspaper and a public hearing shall be held on July 28, 2004.

Motion to Approve the Minutes: June 9, 2004 Regular Meeting

Council member Ladiana commented on issues raised at the June 23, meeting regarding the inclusion of alleged comments, made by her, into the official minutes of the June 9th meeting. There was also dialogue regarding the Boroughs Minutes Adoption Policy.

This motion was made by Council member Ladiana and seconded by Council member Nolan.

This resolution was adopted by the following vote.

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

Motion to Approve the Minutes: June 23, 2004 Regular Meeting

This motion was made by Council member Nolan and seconded by Council member Niles.

This resolution was adopted by the following vote.

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

The Executive Session minutes for June 23, 2004 will be approved by a yes vote by a majority of Council members as indicated by the signatures on those minutes.

REPORTS - COUNCIL MEMBER, COMMITTEE, PROFESSIONAL

Council member Archibald reported that the summer recreation is underway and there are about 80 campers participating.

Council member Spatola reported that the air conditioning unit in the Fireman's field house, needed to be replaced and caused the recreation program to be relocated to St. Agnes, who donated their space until the repairs were made. She thanked everyone for their help with the fireworks at the Harbor on July 2nd.

Council member Niles reported that the AH Yacht club started their sailing program. The Planning Board granted permission to the Florist on First Ave to make improvements. The proposal on Keystone Dr. was denied due to a tie vote.

Council member Nolan gave positive comments regarding the fireworks. He reminded everyone that Thursday nights, at the First Ave Playhouse, is \$5.00 for seniors, sponsored by the Borough. He also received a note from the Librarian urging the Council to write letters to the Legislature encouraging the support of funding, to improve libraries throughout the State.

Council member Fligor reported that the Sewerage Authority has drawn up a draft of the Inflow and Infiltration agreement between the Authority and the Borough, and he will distribute it for review. He also spoke to Engineer Elliott about 7th Ave, which is on the fast track and should be finished soon. NJNG has gotten all of the access agreements for the delineation sampling, from Highway 36 to the bay.

Council member Ladiana remarked on the nice paving job on W. Lincoln Ave. She reported that the Borough received a \$25,000.00 grant for direct property tax relief from the State. Harbor Security is up and running and things are moving along well. Council member Archibald asked for a report of the Harbor Commission meeting events. She outlined their agenda and mentioned that Ken Kinchella will be making a presentation on

the 29th about “How to be a Clean Marina”. She announces that the Borough Council has made a unanimous decision to have Dwayne Harris continue as the acting Municipal Clerk. Council member Fligor added that he was very impressed during the interview.

Robert Dougherty thanked Council member Spatola and the Acting Clerk for handling the air-conditioning situation at the Field House. He reported that the milling on Bay Ave will be finished this week and will be completed by Tuesday or Wednesday of next week. Council member Fligor mentioned the scheduled block party on the 17th, and was assured that the equipment would be relocated away from the area for safety. The 7th Ave manhole is being worked on and should be completed in another three or four weeks. The 2004 Road Projects should be ready to go out to bid on July 21st. He remarked on the fine job done by Martin Hawley, the Fire Marshall, on the handling the Fireworks.

Engineer Elliott had no substantial report but did answer a few questions.

Attorney Miller reported that the Sip-N-Dip matter was tried and the Boroughs’ R3 zone was upheld. Council member Archibald asked about Gate Cottage and Attorney Miller commented that she has spoken with the Engineer and the Director of Planning from Middletown, and they are getting her the plans that mandated reviewing by Middletown, to prevent the subsidence of the hill where the Gate Cottage is being developed. Council member Fligor also commented on the actions that have occurred at that location and reaffirmed issues regarding the settlement agreement and the conditions of the Gate Cottage.

PUBLIC COMMENT SESSION

William Phillips-Memorial Pkwy-asked Attorney Miller if we still had two attorneys on the payroll. Attorney Miller responded yes until July 15th, which is the deadline for him [Bernie Reilly] to complete the codification. He asked Council member Ladiana how we were by dept in regards to budget spending. She responded 53% for the Borough overall.

Laura Chamberlain-CJ Hess- Bay Ave will be done next week. They have run into quite a few engineering problems. They are aware of the block party next week and will store their equipment in a very responsible manner. Council member Nolan questioned what engineering problems. She informed him of problems with the sewer lines, the thickness of the grade and just one problem after another.

Chief Vasto- AH Police Dept.- apologized for not being here earlier and offered to answer any questions regarding discussions earlier in the meeting. Council member Nolan stated that it needs to be worked out more amicably, there are some things that maybe she can work on and she needs leeway on others. Mayor Donoghue stated that we had some discussion on it, and the way it was left was that we would be discussing the issue with the idea of reaching some sensible accommodation. Council member Archibald asked when are we going to sit down and make this decision? We can’t keep

putting these things off. Attorney Miller says we should communicate with the court...the Judge told the participants that he would prefer the Council make the decision in regards to this and she is going to find out exactly what was said. Mayor Donoghue stated there has been no communications between the Council and the Judge, she [Attorney Miller] will find out what he suggests we do and go from there.

Jimmy Pasaro-32 Navesink Ave- asked if the lights on the telephone poles on First Ave would be turned off. Mr. Dougherty has a call in to see if it is feasible for them to turn them off and we are waiting for their reply.

Joseph Hawley-25 Ocean Blvd.- asked if the Council was aware that some of the poles on the lights were bent down. The Mayor responded yes and Mr. Dougherty stated that the contractor would be bringing the tool to remove them. He also believes the Police caught the individual that did it. He also announce that there would be a Blood Drive on behalf of Council member Spatola's late brother-in-law, on August 17th at the Senior Center, between 5:00 and 7:00pm and asked for donations of baked goods and money for postage.

William Phillips- Memorial Pkwy- asked if Bay Ave was on schedule and in budget? Mr. Dougherty responded that we are over time and over budget and that was attributed to the Engineer David Hoder. Mr. Phillips asked in the last five years has there been any single project that has come in on time and under budget. Mr. Dougherty responded two. When asked what the difference between those two and the others where Mr. Dougherty answered the engineers were different on those two jobs.

Laura Hess Chamberlain- commented that Bay Ave was ready to go in September, but because of the reengineering problems they got pushed off.

Denis Jaspán asked if the engineer has been paid on the Bay Ave job yet?

Council member stated that this Council picked Maser for Bay Ave and the and the Mayor clarified that this project was designed under the previous Council and we elected, rather than spending all new money to have it redesigned, to let them proceed.

After some casual questioning Mayor Donoghue closed the Public Comment session.

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) Blue Bay Inn
- 2) Bayshore Restaurant Group

Mr. Harris read this resolution in full. It was offered and moved for adoption by Council member Nolan at 9:45 PM, seconded by Council member Niles and adopted by unanimous consent

RECONVENE - At 12:20 PM the meeting was resumed.

ADJOURN - There being no further business before the Mayor & Council, Council member Niles moved to adjourn the meeting at 12:22am, the motion was seconded by Council member Ladiana and unanimously approved.
