

MAYOR AND COUNCIL
BOROUGH OF CLOSTER

REGULAR MEETING MINUTES – DECEMBER 21, 2009 (MONDAY) - 7:30 P.M.

Mayor Heymann called the meeting to order at 7:35 p.m.

1. PLEDGE OF ALLEGIANCE

Mayor Heymann invited all to join in the Pledge of Allegiance.

2. OPEN PUBLIC MEETINGS ACT STATEMENT

Mayor Heymann declared that the meeting was being held in compliance with the provisions of the Open Public Meetings Act.

3. ROLL CALL

Those present were the following:

Mayor Sophie Heymann
Councilpersons John C. Glidden, Jr., Thomas Hennessey, John Kashwick, David Barad
and Cynthia Tutoli
Borough Administrator, Quentin Wiest
Borough Attorney, Edward T. Rogan
Borough Clerk, Loretta Castano
Borough Engineer, Nick DeNicola
Chief of Police, David Berrian
Council-Elect, Arthur Dolson and Alissa Latner

The following persons were absent:

Councilwoman Victoria Amitai

4. MAYORAL APPOINTMENT OF _____ AS MEMBER OF THE ENVIRONMENTAL COMMISSION FOR AN UNEXPIRED 3-YEAR TERM (ISACOFF) TO 12/31/09 (4. M.L. 10/22/09)

5. OPEN MEETING TO PUBLIC FOR ANY MATTER, PER N.J.S.A. 10:4-12 (a)
(Subject to 5-minute limit per General Rule No. 10)

Steve Isaacson, 97 Columbus Avenue, said that he had spoken to Mr. Rodriguez of Green Acres who advised him that Memorial Field is not under Green Acres jurisdiction; and, therefore, it would be up to the Mayor and Council to determine the use of the field. Mayor Heymann said that the Mayor and Council has come to an amicable solution that the fields would be properly signed and opened with an indication that they are not to be used for group sports activities. Mr. Isaacson expressed support for the signs but not for the fences unless there is subsequent damage to the fields. Councilman Barad said that the fences would have large openings so that the public may walk through.

Mr. Isaacson referred to an article in the newspaper relative to towns receiving money for cell tower usage and indicated that Closter was not receiving as much money as other towns. Mayor Heymann said at the time of the original agreement, the rates were considerably less than present rates; and the present agreement expires in two years at which time she assured the Borough would be receiving more money.

Hugh Johnson, 107 Demarest Avenue, reiterated his plea for additional money for Borough Clerk, Loretta Castano, whom he felt was one of the hardest working employees and has been for a long time in this Borough. He said since his request was not discussed in Closed Session, he would ask that it be discussed in Open Session. The Borough Clerk should be treated equally with the other three employees that got bonuses and he noted that she worked long hours in the absence of the Acting Administrator and continues to work long hours and weekends even after the employment of a new Administrator. He said he has checked with the Administrator and there is sufficient money to give her the \$4,000 that was given to the three other employees.

Jack Kelly, 132 Herbert Avenue, referred to the Mayor's letter to the editor and to a list of salaried positions with no names. Mayor Heymann said that the listing is a Salary Guide and not every position is filled. She said that the Administrator could provide a listing of the names for the positions. Mr. Kelly questioned the titles and felt that there was an overlapping of jobs.

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6. COMMUNICATIONS

a. MAIL LIST – DECEMBER 10, 2009 – Mayor Heymann reviewed the correspondence distributed on this date and asked if any member of the Council wished to address any matter or provide any comments.

The following items were removed by the following individuals: Hugh Johnson, 107 Demarest Avenue, removed Item No. 1. Steve Isaacson, 97 Columbus Avenue, removed Item No. 3. Jack Kelly, 132 Herbert Avenue, removed Item No. 6.

Item No. 1 – Received 12/03/09, hand delivered, dated 05/06/09 from Joseph Luppino, CPA, CFO c: Quentin Wiest, Gary Vinci, re Letter of resignation as Closter Borough Chief Financial Officer effective December 31, 2009.

Hugh Johnson, 107 Demarest Avenue, questioned if this was a temporary resignation; and Mayor Heymann said that this is a permanent resignation since he has taken on more responsibilities on the County level.

Item No. 3 – Received 12/04/09, dated 12/02/09 from Lorraine L. McMackin, RMC, CMC, to Borough Clerk re Notice of Public Hearing to be held 12/30/09 @8:00 p.m. re Ordinance No. 09:13, “An Ordinance Amending Chapter 233 of the Code of the Borough of Norwood titled “Zoning” to Add Conditions for Communications Towers and Communications Antennas as Conditional Uses”

Steve Isaacson, 97 Columbus Avenue, said that Norwood is changing their ordinance to accommodate more towers and Closter should pay close attention to same.

Item No. 6 – Received 12/08/09, dated 12/01/09 from Joseph Stefanoni, Supervisor, Bureau of Underground Storage Tanks, NJDEP, to Patrick O’Brien, DTR Automotive Inc. c: Borough Clerk, Bergen County Dept. of Health Services re Notice of Deficiency: Remedial Investigation Report and Remedial Action Work Plan for: DTR Automotive Service Inc., 422 Demarest Ave., SRP P1#016395, Activity Number Reference: USR 000001, Case #88-04-18-1506, SEC #4 (Copy to Board of Health, Construction Official, Environmental Commission)

In answer to Jack Kelly, 132 Herbert Avenue, Mayor Heymann said that this is a routine notification by the Department of Environmental Protection providing a remediation report.

b. MAIL LIST – DECEMBER 17, 2009 – Mayor Heymann reviewed the correspondence distributed on this date and asked if any member of the Council wished to address any matter or provide any comments.

The following items were removed by the following individuals: Steve Isaacson, 97 Columbus Avenue, removed Item No. 2. Jack Kelly, 132 Herbert Avenue, removed Item No. 3. Borough Clerk removed Item No. 7.

Item No. 2 – Received 12/14/09, dated 12/04/09 from Gary Vander Veer, P.E., Azzolina & Feury Engineering to Borough Clerk re Borough of Demarest, Stream Cleaning and Desilting, Demarest Brook Tributary, Our Field No. DE-664 Notification informing of application to NJDEP for permits to clean and desilt a portion of a tributary to the Demarest Brook, at Central Avenue and Northwood Avenue, where the tributary crosses the streets.

Steve Isaacson, 97 Columbus Avenue, noted that approximately 100’ north of the bridge, a tree limb that has fallen forming a dam; and he questioned if Demarest could be asked to clean up that area in Closter. Borough Engineer said that we would not want another town cleaning our brook; and since Demarest has not applied to clean that section of the brook, it could not be done. The DPW can cut the branch and remove same without a permit.

Item No. 3. – Received 12/15/09, dated 12/11/09 from Jeffrey G. Entin, Senior Manager, Environ Corporation to Ellen Hutchinson, Case Manager, NJDEP Bureau of Field Operations – Northern Section c: Board of Health, Borough Clerk re Supplemental Delineation Data Related to Notice of Immediate Environmental Concern (IEC) at JADCO, Inc. property: 84 Herbert Avenue, Closter, MOA Case #01-02-15-0305-10; PI#G000061745; Follow-up Results Relative to Mobile Autocare Vapor IEC, (Letter only!) (Copy to Board of Health, Construction Official, Environmental Commission – letter only!)

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In answer to Jack Kelly, 132 Herbert Avenue, Borough Engineer said that the DEP tracks the property and provides progress reports; and Councilman Barad provided a copy of the report.

Item No. 7 – Received 12/16/09, dated 12/14/09 from Jean D. Kuck, City Clerk, City of Rahway to Borough Clerk re Resolution No. AR-306-09, “A Resolution Urging the Legislature to Amend the Open Public Records Act to address various technical and practical issues” adopted 12/14/09.

Borough Clerk asked that a Resolution of support be included on the next agenda because of the many issues involved. Mayor Heymann expressed her support for the inclusion of the resolution on the next agenda.

7. OPEN MEETING TO PUBLIC FOR COMMUNICATION ITEMS ONLY
(Subject to 5-minute limit per By-Laws General Rule No. 10)

Mayor Heymann opened the meeting to the public for communication items only.

8a. REVIEW OF CONSENT AGENDA ITEMS
(PROCEDURE TO BE EXPLAINED BY MAYOR HEYMANN)

Mayor Heymann explained the procedure and reviewed the items on the Consent Agenda and asked if any member of the Council or Public wished to remove or discuss any item.

9.* BILL RESOLUTION – DECEMBER 31, 2009
TO BE PREPARED BY DEPUTY TREASURER

10.* TRANSFER RESOLUTION NO. 2 (Received from Administrator 12/16/09)

~~11.*~~ POSSIBLE APPOINTMENT(S) OF SALARIED EMPLOYEES (NOT MADE AT THE REORGANIZATION MEETING HELD 1/5/09) RESOLUTIONS TO BE PREPARED BY ADMINISTRATOR Adjourned from RM 1/14/09; 1/28/09; 2/11/09; 2/25/09; 3/11/09; 3/25/09; 4/6/09; 4/22/09; 5/13/09; 5/27/09; 6/10/09; 6/24/09; 7/8/09; 7/22/09; 8/12/09; 8/26/09; 9/9/09; 9/23/09; 10/14/09; 10/28/09; 11/9/09; 11/23/09; 12/9/09):

<u>OFFICE</u>	<u>APPOINTEE</u>	<u>TERM</u>	<u>EXPIRATION</u>
DEPUTY TAX COLLECTOR	_____	1 Year	12/31/09
DESK DISPATCHER			
FULL TIME	_____	1 Year	12/31/09
POLICE MATRON	_____	1 Year	12/31/09

12.* RESOLUTION REVISING 2009 SALARY FOR HEALTH REGISTRAR/
SECRETARY/LICENSING OFFICIAL (Received from Administrator 12/16/09)

13.* RESOLUTION AUTHORIZING EXECUTION OF A GRANT APPLICATION,
AGREEMENT, AND AMENDMENTS WITH THE STATE OF NEW JERSEY FOR
A BOROUGH OF CLOSTER MASTER PLAN HISTORIC PRESERVATION ELEMENT
(Received from Administrator 12/16/09)

14.* RESOLUTION AUTHORIZING ISSUANCE OF 2009 CERTIFICATE OF
COMPLIANCE TO ROAD STAR LIMOUSINE SERVICES, 26 BOGERT STREET,
FOR 2006 GMC YUKON XL SLE (Approval received from Risk Management Consultant and
Borough Attorney 12/17/09)

15.* RESOLUTION FIXING MEETING DATES FOR THE SINE DIE MEETING AND
REORGANIZATION MEETING

MOTIONS

16.* APPROVING THE FOLLOWING MAYOR AND COUNCIL MINUTES:
(Distributed 12/17/09) NO ABSTENTIONS

- a. REGULAR MEETING OF DECEMBER 9, 2009
- b. WORK SESSION OF DECEMBER 9, 2009

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~~17.*~~ MOTION APPROVING THE FOLLOWING NON-SALARIED APPOINTMENTS (NOT MADE AT THE REORGANIZATION MEETING HELD 1/5/09) Adjourned from RM 1/14/09; 1/28/09; 2/11/09; 2/25/09; 3/11/09; 3/25/09; 4/6/09; 4/22/09; 5/13/09; 5/27/09; 6/10/09; 6/24/09; 7/8/09; 7/22/09; 8/12/09; 8/26/09; 9/9/09; 9/23/09; 10/14/09; 10/28/09; 11/9/09; 11/23/09; 12/9/09:

<u>OFFICE</u>	<u>APPOINTEE</u>	<u>TERM</u>	<u>EXPIRATION</u>
BOARD OF HEALTH ALT. NO. 2	_____	2 Year un- expired to	12/31/09
HISTORIC PRESERVATION COMMISSION/MEMBER	_____	4 Year	12/31/12
IMPROVEMENT COMMISSION MEMBER	_____	2 Year	12/31/10
ALT. NO. 2	_____	2 Year	12/31/10
RECREATION COMMISSION ASSOCIATE MEMBER	_____	1 Year	12/31/09
**SHADE TREE COMMISSION ALT. NO. 2	_____	2 Year	12/31/10

** Mayoral Appointment

~~18.*~~ MOTION APPOINTING _____ TO SERVE AS MEMBER OF THE ZONING BOARD OF ADJUSTMENT FOR AN UNEXPIRED 4-YEAR TERM (MATTES) TO 12/31/09 (14. M.L. 6/25/09) Adjourned from RM 7/8/09; 7/22/09; 8/12/09; 8/26/09; 9/9/09; 9/23/09; 10/14/09; 10/28/09; 11/9/09; 11/23/09; 12/9/09)

19* ACCEPTANCE OF THE FOLLOWING MONTHLY REPORTS:
 a. CHIEF OF POLICE – NOVEMBER 2009 (Received 12/14/09)

In answer to Mr. Kelly, 132 Herbert Avenue, Mayor Heymann explained that the openings on various Boards and Commissions would be filled next month at the Reorganization Meeting. The transfer resolution is a financial transaction to balance the books. The Sine Die Meeting and Reorganization Meetings would be held on January 4th at 7 p.m. and 7:30 p.m. respectively.

The following items were removed from the Consent Agenda by the following individuals. Mayor Heymann previously removed Item Nos. 11, 17, 18.

8b. VOTE ON CONSENT AGENDA ITEMS

Motion to approve the Consent Agenda minus Item Nos. 11, 17 and 18 was made by Councilman Kashwick, seconded by Councilman Glidden and declared carried by Mayor Heymann upon the affirmative vote of Councilpersons Glidden, Hennessey, Kashwick, Barad and Tutoli.

20. REVIEW AND VOTE ON ITEMS REMOVED FROM CONSENT AGENDA

21. ANY OTHER MATTER WHICH MAY PROPERLY COME BEFORE THE GOVERNING BODY

At this time, Borough Administrator distributed a resolution that Mayor Heymann indicated was discussed at the last meeting and which she proceeded to read.

21a. RESOLUTION AUTHORIZING EMERGENCY APPROPRIATION PURSUANT TO N.J.S.A. 40A:4-48

In answer to Jack Kelly, 132 Herbert Avenue, Mayor Heymann explained that the lawsuit that relates to Whole Foods is against the Planning Board and the Borough of Closter; and the plaintiff is A & P, Jesse Rosenblum and parties.

Motion of approval was made by Councilman Barad, seconded by Councilman Hennessey and declared unanimously carried by Mayor Heymann upon the affirmative vote of Councilpersons Glidden, Hennessey, Kashwick, Barad and Tutoli.

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Councilman Barad said that the Deputy Treasurer has advised that a salary resolution would be needed and Borough Administrator provided a figure that would accommodate the payroll and overtime for all departments. Borough Attorney advised that a resolution would be provided at the conclusion of the meeting.

Mayor Heymann asked for a motion to recess the Regular Meeting to go into the Work Session at 8:10 p.m.

Motion to recess the Regular Meeting at 8:10 p.m. was made by Councilman Glidden, seconded by Councilman Kashwick and declared unanimously carried by Mayor Heymann.

Mayor Heymann resumed the Regular Meeting at 8:50 p.m.

- 21b. Motion authorizing the Borough Attorney to initiate a lawsuit against Wiggers for the misuse of Westminster Avenue was made by Councilman Barad, seconded by Councilman Hennessey and declared carried by Mayor Heymann upon the affirmative vote of Councilpersons Glidden, Hennessey, Kashwick, Barad and Tutoli.

Borough Attorney referred to the pending lawsuit and the retail use increase ordinance and the recommendation from the Planning Board. He explained that an issue has arisen as to the Planning Board's proper review of the proposal against the Master Plan. He recommended that the Planning Board be asked to review that specifically to make sure their recommendation was consistent with the Master Plan.

- 21c. Motion instructing the Borough Attorney to send a letter to the Planning Board asking for a review of the square footage ordinance against the Master Plan in 2002 and 2008 was made by Councilman Barad, seconded by Councilman Kashwick and declared carried by Mayor Heymann upon the affirmative vote of Councilpersons Glidden, Hennessey, Kashwick, Barad and Tutoli.

Borough Attorney said that there was a problem with the tax ratio and the method of assessment; and it appears from the way it is being done by the State that municipalities that did a revaluation in anticipation of the housing market going down are being punished inasmuch as our 100% has dropped to 92%. Bergenfield has started suit and has asked us to join, which he recommended.

- 21d. Motion authorizing the Borough Attorney to join the lawsuit with Bergenfield was made by Councilman Barad, seconded by Councilman Kashwick and declared carried by Mayor Heymann upon the affirmative vote of Councilpersons Glidden, Hennessey, Kashwick, Barad and Tutoli.

Borough Attorney referred to the request from the Deputy Treasurer Dee Woods on the need for a salary resolution to accommodate the Borough's final payroll.

RESOLUTION AUTHORIZING THE BOROUGH'S FINAL PAYROLL REQUIREMENTS
FOR THE YEAR 2009 IN AN AMOUNT NOT TO EXCEED \$265,000.

- 21e. Motion of approval was made by Councilman Kashwick seconded by Councilman Barad and declared carried by Mayor Heymann upon the affirmative vote of Councilpersons Glidden, Hennessey, Kashwick, Barad and Tutoli.

22. DISCUSSION OF PUBLIC COMMENTS OR ANY OTHER TIMELY MATTER, IF
APPROPRIATE

Hugh Johnson, 107 Demarest Avenue, said the Borough Attorney indicated to him that he needed permission for preliminary discussion prior to the appeal. He asked for advice from the Borough Attorney relative to his request for a bonus for the Borough Clerk. Borough Attorney said it is a personnel issue that would probably be done in Closed Session by a Councilperson or the Mayor. Mayor Heymann said the matter would be addressed at the next regular meeting. Councilman Barad indicated that he would rather the matter be brought up at another time.

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23. ADJOURN

Motion to adjourn the Regular Meeting at 8:58 p.m. was made by Councilman Glidden seconded by Councilman Barad and declared unanimously carried by Mayor Heymann.

Provided to the Mayor and Council
on December 31, 2009 for approval
at the Sine Die Meeting to be held
January 4, 2010

Loretta Castano, RMC
Borough Clerk

Prepared by Carol A. Kroepke, RMC,
utilizing recording and Borough Clerk's
notes

Approved at the Sine Die Meeting held January 4, 2010
Consent Agenda Item No. 8a.

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Mayor Heymann called the meeting to order at 8:10 p.m.

1. ROLL CALL

The following persons were present:

Mayor Sophie Heymann
Councilpersons John C. Glidden, Jr., Thomas Hennessey, John Kashwick,
David Barad and Cynthia L. Tutoli
Borough Administrator, Quentin Wiest
Borough Attorney, Edward T. Rogan
Borough Clerk, Loretta Castano
Borough Engineer, Nick DeNicola
Chief of Police, David Berrian
Council-Elect Arthur Braun Dolson
Council-Elect Alissa J. Latner

The following persons were absent:

Councilwoman Victoria Amitai

2. PROVISIONS OF OPEN PUBLIC MEETINGS ACT

Mayor Heymann advised that the meeting was being held in compliance with the provisions of the Open Public Meetings Act.

3. COMMITTEE REPORTS

A. FINANCE AND TECHNOLOGY - KASHWICK (GLIDDEN/HENNESSEY)

- 1) STATUS REPORT RE CAPITAL BUDGET/CAPITAL PLAN
(RM 7/9/08) - Councilman Kashwick reported that the Finance Committee met last week which resulted in a number of the Resolutions that were adopted this evening.
- 2) STATUS REPORT RE CLOSTER WEBSITE – Mr. Kashwick noted he had nothing new to report regarding the website.
- 3) REPORT – Councilman Kashwick reported on the following:
 - a. Environmental Commission did not meet this month; therefore, he had no report.
 - b. Shade Tree Commission is in the process of completing the Tree City USA application which, hopefully, will result in our 10th year of receiving that honor. As an aside, some of the accomplishments of the Shade Tree Commission this year, in addition to filling all of its other duties such as earning CEU credits, etc.; we planted 115 trees in the past year and 60 dead and dying trees were removed.

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c. Historic Preservation Commission - at the last meeting, we passed the Historic District; and he expressed his pride in that achievement for the Commission.

B. PUBLIC SAFETY - GLIDDEN (TUTOLI/HENNESSEY)

1) REPORT – Councilman Glidden reported he had no Public Safety report but noted there would be a report on the “CALEA” activities at the next meeting.

At this time, Councilman Glidden wished to thank the Chief and extend best wishes to the Police Department for happy holidays and asked that Chief Berrian pass along the Council’s gratefulness for the public safety record for 2009. Chief Berrian thanked Mr. Glidden and noted he would pass the message along regarding same.

C. PUBLIC WORKS - HENNESSEY (AMITAI/GLIDDEN)

1) REPORT – Councilman Hennessey advised that the Public Works Committee did not meet this month; therefore he had no report.

D. ORDINANCE - BARAD (KASHWICK/AMITAI)

1) STATUS REPORT RE ORDINANCE COMMITTEE MEETINGS – Councilman Barad had nothing to report.

2) STATUS REPORT RE CITIZEN SERVICE ACT (LFN 2009-24), effective 10/19/09 - WS 11/23/09 – Councilman Barad informed that he received the sample (Municipal Directory) prepared by Arlene in his packet and was not aware if everyone had received same. He expressed he imagined it was circulated to see if they liked the way the format looked and to see if it conformed to the requirements of the new law. Dr. Barad advised that the Ordinance & Legislative Committee has not met to discuss this yet, but asked that everyone take the time to look at it and the new law and they will be discussing it in an upcoming meeting. Mayor Heymann explained for all in attendance that this is a State bill that was just passed that mandates certain transparency resolutions on the individual municipalities, which we mostly have already put into place in Closter; but not necessarily in the formal version that they expect us to put it in. We will comply with the law in every way. Dr. Barad further explained that it makes it very clear and transparent as to how Commissions are organized, how people are appointed; who is on the Commission; how long they will be on it and when they will go off. There have been attempts to make it clear in the past, but this will codify it more and make it easier for all of us in due time. Mayor Heymann added that one of the specific ways that they mandate this is that any openings be advertised on our website; and we have been doing that so we are well on our way to implementing this.

The Borough Clerk noted that no one has indicated whose office will be doing this work, and the timing of it, as the passage of the law was effective 10/19/09, and it involves the preparation of Oaths of Office and Appointments; all of that paperwork is to be completed by the Borough Clerk’s office. Dr. Barad expressed his gratitude. Ms. Castano explained that it has to be accomplished in accordance with the law and meet deadlines; and no objections were voiced to her discussing same with the Borough Attorney.

3) REPORT – Councilman Barad advised the above items concluded his report.

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E. HUMAN RESOURCES - TUTOLI (KASHWICK/BARAD)

1) STATUS REPORT RE PERSONNEL COMMITTEE MEETINGS –

Councilwoman Tutoli had nothing to report.

2) REPORT – Councilwoman Tutoli reported that the Fire Department is in the process of; if they hadn't already done so, submitting for three quotes to have the Fire Department roof repaired.

F. LAND USE AND CONSTRUCTION – AMITAI (BARAD/HENNESSEY)

1) REPORT – Councilwoman Amitai was absent; therefore no report was given.

4. OLD BUSINESS

At this time, Mayor Heymann inquired if anyone had any other matter they wished to discuss. The Borough Attorney advised he had two items for Closed Session.

Dr. Barad advised he wished to revisit the issue regarding fencing at the fields. At the last Council meeting, he noted they advised Jim (Oettinger, Recreation Director) that they were going to help him come up with some signage wording. They had started a conversation as to whether the fences were going to be there or not; but they did not actually formally tell him what the Council's wish was regarding the fences. He felt that it is still something of an issue for some people. He felt maybe they should talk about it a little this evening since they had the time to do so. Dr. Barad expressed his opinion that he did not think we should have fences around our fields and there should be bigger signage. He feels the Recreation Commission should be advised to take the fences down. Mayor Heymann asked for his thoughts if he would feel the same way when the fields are soggy in the Spring; he responded that they could find the soggy parts and install fences around them to protect them, but there are other parts of the fields that can be used; and he didn't think it was necessary to have a fence around the entire perimeter. Councilman Hennessey agreed with Dr. Barad that there should be a sign to stay off the grass. He feels that's what was trying to be accomplished with fences and ropes. He feels the fences and ropes should be taken down and an appropriate sign informing them to stay off the grass should be put up. Councilman Glidden reminded that it was agreed that their policy was not to tell people to keep off the fields. His original objection was that the signs stated the fields were closed; and that is not in the spirit of their policy. They had asked that the signs be changed to reflect the fact that there are to be no organized sports on the fields. In addition to that, the Recreation Commission reported that the two infields at Memorial really should not be used at all because there is damage that is going to be done. Dr. Barad noted that fencing has been put up to close off that damage; and Mr. Glidden stated that he agreed with that decision. Mr. Glidden also had objected that there was fencing at Memorial that had really closed it off, and he said that as it was explained to him, he understood that it was an inadvertent act on the part of the DPW. Mayor Heymann added that the DPW had nothing to do with that fencing; it was the Recreation Commission who did that. Mr. Glidden clarified that it was the DPW that had put up the fence and tied them together, and this was as reported to him by the Recreation Commission. He said he is not clear who did it, and Dr. Barad explained it was volunteers who had completed the work, not the DPW. Mr. Glidden noted regardless of who did it, he objected to that act, so they had taken the attachments and separated them so that people could walk on the field. Dr. Barad

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reiterated that he objected to that entirely because he felt the fencing should not be there at all. He said that if it came to a Resolution, that would be his vote, but he doesn't feel it needs to get to that point right now; but we should give the Recreation Commission our opinion; and if we have a consensus, it should go forward then. Mr. Wiest mentioned he believed they had received a suggestion from the Recreation Commission that he will circulate to everybody and have everyone react to that and get a consensus on the language as to what the sign should say. Dr. Barad stated his two concerns were the signs and the fences, what the wording of the sign should be and if the fences stay up or not. He would be open for straw poll; and if the majority of the Council felt the fences should stay up, then that would be the Council's will; it's not a Resolution it's just a straw poll; if that was appropriate. In response to Dr. Barad, Mayor Heymann agreed it was appropriate. Dr. Barad reiterated there would be a straw poll to advise the Recreation Commission as to whether the Council felt the fences should come down or not. Mr. Glidden wanted to clarify that he didn't feel that they were very far off in terms of what they wanted to see down there; there are fences that assist in making sure certain parts of the field were not trampled on; and the fence configuration was changed – they were separated so that people could walk on there; he felt that the signs should reflect the Council's policy; and he does not feel that saying all of the fencing should come down would be the appropriate tact to take. He responded to Dr. Barad that if that was his suggestion, he would vote against it. As long as it reflects the policy as previously set by the Council he thinks it does. Dr. Barad asked to commence with the straw poll at this time and stated as follows:

I am proposing that there be no temporary fences surrounding the perimeter of the entire field but that appropriate water-logged, mushy parts of the particularly endangered could be enclosed in a snow fence; and added that would include newly sodded areas.” Mayor Heymann asked if the Council was ready to vote and responses were as follows:

Councilman Glidden disagreed with Dr. Barad's wording, but not the spirit of his suggestion. Councilman Hennessey agreed with Dr. Barad; Councilman Kashwick agreed; Dr. Barad agreed and Councilwoman Tutoli agreed. Dr. Barad asked that Mr. Glidden share the results of the poll with Jim (Oettinger); and he agreed to do same. Mr. Wiest reiterated that he would circulate the suggestion from Jim. Mayor Heymann interjected that she is perfectly agreeable to this; it wasn't a contest of wills or anything; and Dr. Barad stated that he wanted to memorialize it so the issue would not keep coming back to them. Councilwoman Tutoli expressed she felt it should not be very wordy; perhaps just “No organized sports – All others welcome” and Mayor Heymann stated she thought they all had agreed on that.

5. NEW BUSINESS

Mayor Heymann announced that there were a few more items to discuss and noted she had passed around a map to the Council and Professionals present. She informed that Westminster Avenue is being used by Denny Wiggers for his own uses and has been warned many, many times. He has received summonses and has been in Court; and the outcome was that he was appealing the Court decision by going to the Zoning Board of Adjustment to ask for a variance, as were his two neighbors, Armaniaco and Crimmins. The recommendation on the part of the Zoning Board, which they had hoped for in order to give the variance, is that Westminster

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would be used as a through street instead of John Street, along side these three contractors. Mr. Hennessey clarified that Westminster would not be a through street; they would just open a portion of the street. It would not connect with West Street. Mayor Heymann thanked him for the clarification and stated that the problem is that Wiggers has encumbered the entire length of Westminster; that portion that would be open for transit and other areas as well; with his own properties. Even though Nick (DeNicola, Borough Engineer) did a good job putting in posts (monuments) for the street limits, they are totally covered by residue that is on the property. She has opened the issue to all for suggestions as to what should be done with this. She wanted to know if the Council had any feeling about using Westminster as a through street instead of John Street; which would avoid a lot of the truck traffic on John Street, however, it would not do much about the noise and the odors. The other part of that is that Wiggers has already been told several times that he is to clear the area and he has not kept faith with that; so the Borough will have to clear the area and put a lien on his property for that amount; but the Borough has a problem in that the property line monuments have been covered up and they need to be uncovered first. Mr. Hennessey noted that he has aerial photos he wanted to pass around; and the photos show a yellow dotted line which represents the outline of Westminster Street. The date on the photos is 2 ½ years ago, although the condition of the street is pretty much the same as these photos. Mayor Heymann asked if everyone had received the photos that Tom (Hennessey) took which were in their e-mails today. Mr. Hennessey explained that some of the smell is coming from horse manure, which he is importing, and then mixes it with the topsoil. In response to Mrs. Tutoli, Mr. Hennessey clarified that this is what he does; he manufactures the topsoil mixed with manure and sells it, and it takes place on Westminster Street. Mayor Heymann stated that if there is going to be a change in the traffic pattern, and the road is going to be opened; and incidentally she did not mention that the three contractors had offered to improve the road at their own expense to be able to use it; and all of these issues fall under the jurisdiction of the Mayor and Council. They need to vote in favor of that, or not in favor of that as they choose.

Steve Isaacson, on behalf of the Environmental Commission, said that we had been accepting horse manure at the MacBain farm which has been stopped, and he believed it was coming from the Rockleigh stables; and now there is manure which is seeping into the water supply. He questioned if this wouldn't be another situation where they had exposed horse manure that could run off into our water supply; and wasn't it grounds enough to get rid of that and get rid of them. Mayor Heymann agreed with Mr. Isaacson.

Jack Kelly, 132 Herbert Avenue, questioned if the issue was open to the public and Mayor Heymann clarified that this was an open discussion. Mr. Kelly expressed he was happy the issue was being brought up as he has been trying to address this for 10 years. This is an issue. He is not entirely in favor to opening up Westminster Street because where it connects to Railroad Avenue is only 24 feet. Having said that, he still doesn't feel it is a good idea to open up Westminster onto Railroad Avenue. The point that must be understood here is that it is only in the past 10 years that Railroad Avenue has been opened up. And prior to that you had Heidenbergs here, and you had Weyerhaeuser here, and you had Gurnee here. And these people had loads of trucks that all went out John Street and came in John Street. He does not know if anyone has been here that long that they would remember, but Heidenberg had a round-the-clock

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operation. There were trucks coming and going all the time. Now we have a bunch of people who moved into the area like Maddaloni and people like that who think they're living in; well I don't know what they think they're living in but push it all down here on our side of town – but Mayor, I am asking you here tonight and I'm going to ask the Construction Code (official) to come with me down and take a walk around – there are so many little things that need to be addressed. He asked not to address just one little layer, but fix the whole thing. William Street is commercial, that whole street is commercial in there; let them bring their trucks in and let them back up into properties from Railroad Avenue. Dr. Barad asked Mr. Kelly to clarify the traffic pattern prior to Railroad Avenue. Mr. Kelly explained that prior to Railroad Avenue, everything went out John Street and came in John Street. In other words, it went up to West Street, on out to Blanch, down Herbert, and this is where Mrs. Heidenberg owned that factory down there. She had 500 people working there; it was a curtain factory. They had two big plants in Norwood and everything went up to Norwood. Everything was stored and shipped from there. Where the Plaza is today, it was a mill. They wove the tweed in there. Mayor Heymann wished to fill Dr. Barad in and said that approximately 10-11 years ago the Council took up the issue of the traffic on John Street because of the complaints from the people who lived there. The traffic pattern was changed to use Railroad Avenue and Blanch Avenue to bring the traffic through to Knickerbocker Road. So we have already in the past dealt with that issue, not that we solved it. Mr. Kelly reminded that 10 years ago, Mr. Maddaloni reviewed the Master Plan in 2002 and the only thing that came from that review was that Mr. Maddaloni got all the truck traffic originating on Railroad Avenue to exit out onto West Street, down Railroad Avenue and eventually coming down Herbert Avenue. He reminded that Weyerhaeuser was the largest taxpayer in this town at one time. Mayor Heymann stated that whatever happened in the past has no bearing on the future; we're trying to fix something that clearly needs to be fixed; and it is not easy to fix, which is why we have been suffering with this for so long.

Mr. Kelly continued that he would bring people down there to get to see the entire situation. Most people have never been down in that area. He brought Mrs. Amitai down there one time and she said she didn't even know that place existed. Maddaloni says (Wiggers) is doing wholesale down there but he bought wood from him (Wiggers) when he needed wood for his fireplace, but now he's against it – it makes no sense. There is no business area left in Closter; where are we supposed to park and do business? Mayor Heymann responded that they are not trying to limit the business area here, we are trying to improve the traffic pattern. He agreed with the Mayor and noted he overheard someone on the Planning Board complaining about some kind of chemical that a new guy was going to bring in when he was opening a new business and they questioned what kind of chemicals he was using. He lives over on Demarest Avenue, what does he care about chemicals? Mr. Kelly urged the Council to do something about it and fix it. Mayor Heymann asked Mr. Hennessey to discuss the issue further; and he explained that opening Westminster is not going to solve the problem, but it is just a first step in trying to alleviate some of the problems down there. It's fairly complicated because it is a zoning issue, a traffic flow issue and it is an issue where people are doing things illegally. Opening up Westminster will force Wiggers to move his stuff off the property. And we have the contractors that surround that area that are willing to do this work at absolutely zero cost to the Borough. Dr. Barad questioned the advantage to the contractors of having this "back door". Mr. Hennessey explained they would

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access their properties from Westminster and they wouldn't be bringing their trucks into their properties on John Street. Dr. Barad asked where the traffic would come down and the Borough Engineer answered it was West Street. Mr. Hennessey clarified they were talking about opening only a portion of Westminster on Railroad Avenue, stopping about 75 feet from the existing paved portion of Westminster. Mayor Heymann explained the lots are apportioned where the 3 lots to the extreme right are Wiggers' lots; the two after that are Crimmins; and the most interior is Armaniaco. Mr. Kelly pointed out that the smells down there are not only from Wiggers; there are other odors down in that area that are very nice; and he can tell them what day it smells.

Dr. Barad expressed he felt this was something they should seriously consider. He agreed a little with Mr. Kelly that they shouldn't consider it in isolation; in that there has to be a general plan. He felt the Borough had enough reason to ask Wiggers to vacate the street; and the Mayor interjected that we have already done that. Mr. Hennessey reminded that three years ago when he came to the Council they had been discussing this issue. Mayor Heymann reminded that we have done that and he had received summonses. As things stand right now, the Borough Attorney has written to him twice, more than five days ago, and at the last warning he was given five days to clear it; and he did not clear it which means the Borough has the authority to clear the property and put a lien on him. Dr. Barad said he felt like things were being mixed up – and the issue is that Wiggers needs to clear the stuff off; and if he doesn't, then we have to go in and clear it for him. Mr. Hennessey said they need to understand the magnitude of what's there; it's not a matter of sending a backhoe down there. He thinks there is about 5,000 cubic yards of fill to be cleared; and questioned what it would cost to remove. Mr. DeNicola estimated about \$10.00 per cubic yard and Mr. Kelly said it may be closer to 3,000 cubic yards there but he has the trucks so he can move it. There is no issue with moving it. Mayor Heymann said the issue is that he hadn't been moving it; and he has been warned over and over again. Borough Attorney advised we could file a suit; we haven't filed a suit yet. He explained to Mayor Heymann that he is not referring to the municipal level; and Mr. Wiest added that this was something that needed to be done at a Superior Court level. Mr. Hennessey stated he believed Mr. Wiggers had brought in over 100 cubic yards this past Saturday. Dr. Barad said he felt that changing the nature of the street is a backwards and passive aggressive way of trying to get something done. If we need the street changed, we change the street; if we need the horse manure moved, we move the manure – they are two separate issues. Mayor Heymann said the street change came up because the Zoning Board is considering that as a way of granting a variance. That's why that issue is in front of us; but we don't have to do it. Mr. Hennessey explained that the Zoning Board is not going to make the variance contingent up the opening up of Westminster. If the variance is approved, and Westminster is opened, it would require him to use Westminster and not John Street. Mr. Rogan added that another advantage to paving it would be that it would provide defined lines, so that if it were to be encroached upon in the future, it would be a yes or no question; it wouldn't be swiveling over as to is it this line, where's the marker, is it buried, it would be very clear that he is on Borough property. The Borough Engineer explained that there is a ditch there too and that has DEP ramifications also. We pave it 300 feet with any kind of improvement, 50 feet. If it was stone - 50 feet. He concurred with Mr. Kelly that it was a Class 1 water. Mr. Kelly suggested to the Mayor to sell it to them and charge them heavy for it; he felt they would buy it. The Mayor replied that they owed a lot of back taxes. Mr. Kashwick questioned how the Zoning Board could

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rule on something that involves Borough property and the Mayor responded that they couldn't which is why the issue was in the Work Session. Mr. Rogan clarified that all it could be was a suggestion from the Zoning Board; it couldn't be anything more than that as it is a Mayor and Council function. Mayor Heymann explained it wouldn't necessarily be an impervious space it could be a gravel road. Mr. Kelly reiterated that it doesn't solve the truck problem. Dr. Barad pointed out that the truck problem was a third issue. He and Mr. Glidden accepted Mr. Kelly's invitation to go down there after the new year and look at the property. Mr. Glidden reiterated that the matter on the table is that he has been warned, he has received letters; and we don't have any choice but to ask him if he's going to move it; and if he's not, then we move it and charge him for it. Dr. Barad added that in due time, if it makes sense to put in a road there and they want to do improvement, that is a separate issue.

Hugh Johnson, 107 Demarest Avenue, noted that he was at the Zoning Board meeting last Wednesday and in addition to all of this it is a health hazard. He believes there are three and possibly four families who in the Spring and Summer cannot go out on their porches due to a tremendous fly problem; and he believes the manure is a huge contributory factor to that. He doesn't know what the Board of Health would need to get involved but it is a problem down there; and something needs to be done.

Mayor Heymann informed that she, the Borough Attorney and the Administrator had met with the neighbors and promised they would do something. They have to start somewhere; but we have to do something to show that we intend to follow through since we have been talking about it for a dozen years. Mr. Hennessey suggested initiating a lawsuit against Wiggers. Mr. Rogan advised of a complication – the Wiggers business that has the stuff on the Borough road does not own the property road. It is not as simple as saying we are going to remove it and put a lien on your property. He wanted it to be clear that it is not as easy to get reimbursed for the costs of having that stuff removed. Dr. Barad suggested we take the soil and sell it. Mr. Rogan said his concern pragmatically, is that if we remove \$10,000 worth of material; we have to put it somewhere. And then we run the risk of him coming back and saying we owe him \$10,000 and us offsetting it for whatever the cost is, but where do we put it. Mr. Wiest's other concern is that if he has inappropriate materials there, once we grab it, then we have inappropriate materials that we have to figure out what to do with. At the end of the day, most likely we would dump the stuff somewhere and he is all for going out and just doing this; but the one thing that gives him pause is picking up routine materials mixed with horse manure that may be inappropriate to dispose of the way we would like, then it will become our white elephant that we are carrying around and trying to dispose of.

The Borough Attorney suggested the best course of action would be to file some sort of action and get the blessing of the court before we start storing it at the DPW or wherever we are going to put it. Mr. Kashwick asked if we were to file suit, where it would put us in terms of the other street nearby that we lease for compensation. Mr. Rogan said that was leased to a public utility for compensation and it is at the Mayor and Council's discretion as to whether they want. He didn't think it was a precedent that needed to be done on every paper street. The Borough Engineer remarked that West Street is open now; and Mr. Rogan clarified it was to a public

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utility, not a private business. Mayor Heymann asked Mr. Hennessey how this would affect what was going on at the Zoning Board and he advised it would have no bearing on it at.

Mayor Heymann announced that in Open Session they needed to authorize the Borough Attorney to file suit.

Steve Isaacson, 97 Columbus Circle, wished everyone a happy holiday and thanks Councilpersons Hennessey and Tutoli for serving; it was great having them.

Jack Kelly asked if the Construction representative could come down with him on Herbert Avenue because they have been at odds where the paving on Herbert Avenue began and ended. He would like to show the Construction Official where it ended. He continued that there is also an issue with the sidewalks. He pointed out that they are not contiguous but we are asked to fix them. Before they are fixed, he thinks everyone should know where the asphalt paving stops, and where the concrete stops.

At this time Mr. Wiest advised he had an item for Closed Session that could be discussed in Open Session if there were no other matters for Closed. He advised it is a personnel matter not pertinent to certain individuals. He wanted to make everybody aware that we do have some employees that will be carrying over some vacation time into the new year. He has some discretionary authority to allow this; and he wanted to inform that by its nature, it happens to certain employees due to the schedule of business towards the end of the year. Mr. Wiest advised that he has no problem with people carrying the time over into the early part of the year as long as there is a plan to use it up within a reasonable time. It is his intent to allow that and wanted to bring it up in case anyone had any comments. In response to Mr. Kashwick's inquiry, he agreed they should come up with a specific deadline within two to three months; he thinks it will be able to accommodate most people; and he will speak to them about it. Mayor Heymann said it is policy giving the Borough Administrator the authority to implement same; and no motion is needed.

6. ANY OTHER MATTER WHICH MAY PROPERLY COME BEFORE THE GOVERNING BODY
7. OPEN MEETING TO THE PUBLIC
8. DISCUSSION OF PUBLIC COMMENTS, IF APPROPRIATE

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9. ADJOURNMENT

Motion to adjourn the Work Session was made by Councilman Glidden, seconded by Councilman Barad and declared unanimously carried by Mayor Heymann at 8:50 p.m.

Provided to the Mayor and
Council on December 31, 2009
for approval at the Sine Meeting
to be held January 4, 2010.

Loretta Castano, RMC
Borough Clerk

Prepared by Arlene Corvelli
utilizing recording and Borough
Clerk's notes.

Approved at the Sine Die Meeting held January 4, 2010
Consent Agenda Item No. 8b.