

MAYOR AND COUNCIL
BOROUGH OF CLOSTER

REGULAR MEETING MINUTES – OCTOBER 28, 2009 - 7:30 P.M.

The Mayor and Council of the Borough of Closter held a Regular Meeting at Borough Hall on Wednesday, October 28, 2009. Mayor Heymann called the meeting to order at 7:34 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

The following persons were present:

Mayor Sophie Heymann

Councilpersons Thomas Hennessey, John Kashwick (8:30 p.m.), David Barad,
Cynthia Tutoli, Victoria Amitai (7:36 p.m.)

Borough Administrator, Quentin Wiest

Borough Attorney, Edward T. Rogan

Borough Clerk, Loretta Castano

Borough Engineer, Nick DeNicola

Chief of Police, David Berrian

The following persons were absent:

Councilman John C. Glidden, Jr.

Mayor Heymann advised that three of the Councilpersons indicated that they would be late for the meeting; and while there is a quorum present to open the meeting, no formal action would be taken. If after the open portion of the meeting, the remaining Councilpersons are still not present, the meeting would be recessed to the Work Session.

4. 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)

Mayor Heymann opened the meeting to the public.

Hugh Johnson, 107 Demarest Avenue, advised of a court date in the Keith Sager matter. He questioned if the Councilpersons had reviewed the comments and recommendations contained in the 2008 Audit and asked for the individual reactions to same. Mayor Heymann reiterated her previous comments that all the Councilpersons have read the section in question and have signed off on same. The issue was discussed at several meetings; and she would not entertain the matter at this time because it is not valid. In answer to a comment about exceeding the \$21,000 bid limit, Mayor Heymann explained that this occurred when the same vendor was used by various persons, who did not know the sum total.

Chief Berrian, speaking for himself, Dee Woods and Maria Passafaro, referred to the article in the Northern Valley Press containing what he termed as Mr. Johnson's scurrilous comments that will be disproved and dealt with accordingly. When asked by Chief Berrian, Jack Kelly said that he would renounce Mr. Johnson's endorsement. Councilman Barad noted that he did write a response disagreeing with Mr. Johnson's letter and he hoped same would be published. Mr. Johnson said that his comments would be proven by the criminal justice division noting he has all of the evidence substantiating his comments. He said he was told by a police officer two weeks ago that the Chief of Police instructed him not to talk to him. He talked to me anyway and his wife has been victimized. He noted that he would not be intimidated or silenced. Chief Berrian voiced his understanding that Lieutenant Doerr told the officer not to speak to Mr. Johnson and added that it did not come from him or his office.

5. MAYORAL APPOINTMENT OF _____ AS MEMBER OF

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THE ENVIRONMENTAL COMMISSION FOR AN UNEXPIRED 3-YEAR TERM (ISACOFF) TO 12/31/09 (4. M.L. 10/22/09) Mayor Heymann noted that there would be no appointments at this time.

6. COMMUNICATIONS

a. MAIL LIST – OCTOBER 15, 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.

b. MAIL LIST – OCTOBER 22, 2009 – Mayor Heymann reviewed the correspondence distributed on this date and asked if any member of the Council wished to address any matter.

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

Mayor Heymann indicated that she had already opened the meeting to the public on communication items.

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.*~~—INTRODUCTION OF ORDINANCE NO. 2009:1061, “AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 147, PROPERTY MAINTENANCE, SPECIFICALLY SECTIONS 147-6 AND 147-13” (Received from Borough Attorney 10/15/09) - PUBLIC HEARING – MONDAY, 11/23/09 @ 7:30 P.M. OR AS SOON THEREAFTER AS THE MATTER MAY BE HEARD

10.* BILL RESOLUTION - OCTOBER 31, 2009
TO BE PREPARED BY DEPUTY TREASURER

~~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):

<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 AUTHORIZING THOSE LICENSEES WHO HAVE NOT RECEIVED THEIR TAX CLEARANCE CERTIFICATES FROM THE DIVISION OF TAXATION, WHO HAVE COMPLIED WITH ALL OTHER REQUIREMENTS FOR RENEWAL OF THEIR 2009-2010 ANNUAL LIQUOR LICENSE RENEWALS, TO APPLY FOR AN AD INTERIM PERMIT UNTIL SUCH TIME AS THEIR TAX CLEARANCE CERTIFICATE IS OBTAINED FROM THE DIVISION OF TAXATION

13.* RESOLUTION AUTHORIZING RELEASE OF CLOSED SESSION NOTES OF JUNE 24, 2009

14.* RESOLUTION AUTHORIZING TAX COLLECTOR TO CANCEL TAXES RECEIVABLE FOR 2ND QUARTERS 2009 PRELIMINARY TAXES IN THE AMOUNT OF \$3,212.89 and final tax totaling \$1,866.38 ON BLOCK 1302; LOT 13, ASSESSED TO FONRAEL REALTY, C/O E. FONDER (Received from Tax Collector 10/19/09)

15.* RESOLUTION AUTHORIZING TAX COLLECTOR TO CREDIT THE FOLLOWING

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ACCOUNT FOR TAX YEAR 2009: CAEA, LLC (Charles & Elaine Amorosso), BLOCK 21, LOT 21, IN THE AMOUNT OF \$1,075.81 (Received from Tax Collector 10/19/09)

- 16.* RESOLUTION AUTHORIZING MAYOR AND COUNCIL TO ENTER INTO A GRANT AGREEMENT WITH THE COUNTY OF BERGEN FOR THE PURPOSE OF USING \$7,000.00 IN 2010 COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS FOR IMPROVEMENTS TO THE CLOSTER SENIOR CENTER BUILDING (alarm repairs, window replacement, roof support columns and sidewalk improvements) (Received from Administrator 10/21/09)
- 17.* RESOLUTION APPROVING THE SETTLEMENT OF BER-L-02917-07 (Received from Borough Attorney 10/22/09)
- 18.* RESOLUTION AWARDED CONTRACT FOR PROFESSIONAL ENGINEERING SERVICES WITHOUT COMPETITIVE BIDDING PER N.J.S.A. 40A:11-2(6) TO LANGAN ENGINEERING AND ENVIRONMENTAL SERVICES, IN CONJUNCTION WITH THE REMEDIATION OF CONTAMINATION LOCATED AT THE DPW FACILITY, PER PROPOSAL LETTER DATED 10/6/09, IN AN AMOUNT NOT TO EXCEED \$19,500.00 FOR 2009 (Received from Administrator 10/21/09)
- 19.* RESOLUTION AUTHORIZING DEPUTY TREASURER TO RETURN REMAINING ESCROWS TO MARTY UMANS PHOTOGRAPHY IN THE AMOUNT OF \$587.20 FOR POLICE TRAFFIC DIRECTOR SERVICES IN COMPLIANCE WITH LOCAL FINANCE NOTICE 2000-14 (Received from Chief of Police 10/15/09)
- 19a.* 2009 SALARY RESOLUTION (Requested by Administrator 10/22/09 @ 2:26 p.m.)
TO BE PREPARED BY ADMINISTRATOR
- 19b.* RESOLUTION CONFIRMING ENDORSEMENT OF, AND AUTHORIZING MAYOR TO BE A SIGNATORY ON A TRUST FUND DEDICATED TO HONORING 300 YEARS OF CLOSTER'S HISTORY THROUGH A MONTH-LONG CELEBRATION IN APRIL 2010 (This Trust Fund is to be solely utilized for the establishment and execution of celebratory events known as "Celebrating 300 Years of Closter's History") (Received from Administrator 10/27/09 @ 5:36 p.m.)
- ~~19c.*~~ RESOLUTION APPOINTING DONALD SCHIESS AS DEPUTY SUPERINTENDENT, DEPARTMENT OF PUBLIC WORKS, FOR A TERM EXPIRING 12/31/09, AT A RATE OF \$80,000.00 ANNUALLY, TO BE PRO-RATED FOR THE TIME REMAINING IN 2009, EFFECTIVE 11/1/09 (Received from Administrator 10/27/09 @ 5:36 p.m.)

The following items were removed by the following individuals: Mayor Heymann previously removed Item Nos. 11 and 19c. Councilwoman Tutoli removed Item No. 9; Borough Administrator removed Item No. 18; Jack Kelly removed Item No. 17.

8b.1) VOTE ON CONSENT AGENDA ITEMS

Motion to approve the Consent Agenda minus Item Nos. 9, 11, 17, 18, and 19c was made by Councilman Barad seconded by Councilwoman Tutoli and declared carried by Mayor Heymann upon the affirmative vote of Councilpersons Hennessey, Barad, Tutoli and Amitai.

26. REVIEW AND VOTE ON ITEMS REMOVED FROM CONSENT AGENDA

9. INTRODUCTION OF ORDINANCE NO. 2009:1061, "AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 147, PROPERTY MAINTENANCE, SPECIFICALLY SECTIONS 147-6 AND 147-13" (Received from Borough Attorney 10/15/09) - PUBLIC HEARING – MONDAY, 11/23/09 @ 7:30 P.M. OR AS SOON THEREAFTER AS THE MATTER MAY BE HEARD

Councilwoman Tutoli expressed concern about the Property Maintenance Officer posting a notice on the door of an unoccupied building that could publicize that the property is vacant. Borough Attorney said the ordinance is modeled after a New York statute and this was a result of the number of properties that were in foreclosure earlier in the year. At that time the Building Department was unable to make service thereby delaying the clean up of those properties because of the wording of our current ordinance. The courts recognize the

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posting of a notice as good service. The Council would determine whether or not the certification of costs is acceptable.

Jack Kelly, 132 Herbert Avenue, cited the condition of a property on Durie Avenue that he believed is owned by the church and Mayor Heymann said that because of the necessary procedures that must be followed, it is a slow process to effect the clean up but that she would check on this property.

Motion to approve Consent Agenda Item No. 9 was made by Councilman Barad, seconded by Councilwoman Tutoli and declared carried by Mayor Heymann upon the affirmative vote of Councilpersons Hennessey, Barad, Tutoli and Amitai.

~~17.~~ RESOLUTION APPROVING THE SETTLEMENT OF BER-L-02917-07
 (Received from Borough Attorney 10/22/09)

Jack Kelly, 132 Herbert Avenue, asked for an explanation of the resolution. Borough Attorney advised that the resolution was for the settlement of the Diane Larsen case; and the details of the settlement have not been discussed with the Mayor and Council. There would be no contribution by the Borough, except for the deductible, since same is a settlement by the Insurance Fund. This matter will be discussed in Closed Session and he requested that the resolution be removed from the Agenda at this time.

18. RESOLUTION AWARDING CONTRACT FOR PROFESSIONAL ENGINEERING SERVICES WITHOUT COMPETITIVE BIDDING PER N.J.S.A. 40A:11-2(6) TO LANGAN ENGINEERING AND ENVIRONMENTAL SERVICES, IN CONJUNCTION WITH THE REMEDIATION OF CONTAMINATION LOCATED AT THE DPW FACILITY, PER PROPOSAL LETTER DATED 10/6/09, IN AN AMOUNT NOT TO EXCEED \$19,500.00 FOR 2009 (Received from Administrator 10/21/09)
MOTIONS

Borough Administrator asked that the Resolution be removed from the Agenda for action at a later time.

At this time, Mayor Heymann informed she had not completed reading the Consent Agenda Items and continued as follows:

MOTIONS

~~20.*~~ 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:

<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

21.* APPROVING THE FOLLOWING MAYOR AND COUNCIL MINUTES (Distributed 10/22/09) NO ABSTENTIONS:

- a. REGULAR MEETING OF OCTOBER 14, 2009
- b. WORK SESSION OF OCTOBER 14, 2009

~~22.*~~ MOTION APPOINTING _____ TO SERVE AS MEMBER OF THE ZONING BOARD OF ADJUSTMENT FOR AN UNEXPIRED 4-YEAR TERM (MATTES)

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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

- 23.* GRANTING APPROVAL FOR CORE THE CENTER OF FITNESS TO CONDUCT THE RUCKMAN ROAD 5K RACE ON SATURDAY, 11/7/09, AT 10 A.M. TO START IN FRONT OF THEIR FACILITY AT 91 RUCKMAN ROAD, GO UP TO THE TOP OF RUCKMAN ROAD, MAKE A LEFT AT ANDERSON AVENUE, A LEFT DOWN BOWERS LANE, ACROSS BUZZONI CROSSING OVER RUCKMAN ROAD TO VENUS DRIVE BACK UP THE HILL TO RUCKMAN AND RETURN TO THE FACILITY (4. M.L. 10/8/09/Approval received from Risk Management Consultant 10/16/09)
- 24.* MOTION RATIFYING APPROVAL FOR THE RECREATION COMMISSION TO CONDUCT THE ANNUAL HALLOWEEN PARADE ON SUNDAY, 10/25/09, AT 1 P.M (7. M.L. 10/22/09)
- 25.* ACCEPTANCE OF THE FOLLOWING MONTHLY REPORTS:
- a. CHIEF OF POLICE - SEPTEMBER 2009 (Received 10/14/09)

The following items were removed from the Consent Agenda by the following individuals: Mayor Heymann previously removed Item Nos. 20 and 22.

8b. 2) VOTE ON CONSENT AGENDA ITEMS

Motion to approve the Consent Agenda minus Item Nos. 20 and 22 was made by Councilman Hennessey seconded by Councilwoman Amitai and declared carried by Mayor Heymann upon the affirmative vote of Councilpersons Hennessey, Barad, Tutoli and Amitai.

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

Hugh Johnson, 107 Demarest Avenue, said he is not recusing his support of Jack Kelly despite the pressure from the Police Chief; and he asked what gives the Police Chief the right to be the spokesman for Borough employees when he has attempted to silence him and put the word out to Lieutenant Kevin Doerr on this matter. Mayor Heymann said that everyone at this meeting has the right to speak his mind. Mr. Johnson said as a citizen he has the right to criticize public officials he feels are fraudulent, wrong, waste taxpayer money and he would not be silenced.

Jack Kelly, 132 Herbert Avenue, said he did not appreciate Mr. Johnson's condemnation of the town and suggested that if he has a problem, he should hire an attorney. He referred to Resolution No. 19c authorizing a new hire in the amount of \$80,000. Mayor Heymann explained that the resolution had been removed from the Agenda and no action would be taken at this time.

Jennifer Rothschild, 32 Hickory Lane, questioned the fund for the 300th Anniversary celebration; and Mayor Heymann explained that the celebration would be held in April 2010. Funds for the celebration would be needed; and it is hoped that the community would provide donations. A fund would have to be established to which she had contributed the first \$50.

Hugh Johnson, 107 Demarest Avenue, said that he is not condemning the town but certain public officials for abrogating their responsibilities and violating the law.

Mayor Heymann asked for a motion to recess the Regular Meeting to go into the Work Session at 8:05 p.m.

Motion to recess the Regular Meeting at 8:05 p.m. was made by Councilman Hennessey, seconded by Councilman Barad and declared unanimously carried by Mayor Heymann.

Mayor Heymann resumed the Regular Meeting at 8:17 p.m.

She asked for approval for the following Resolution:

- 27a. RESOLUTION AUTHORIZING SEWER CONNECTIONS FOR ALPINE RESIDENT IN

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ACCORDANCE WITH THE ALPINE/CLOSTER SEWER AGREEMENT OF AUGUST 5, 1994

Motion to approve the Resolution was made by Councilman Hennessey seconded by Councilwoman Tutoli and declared carried by Mayor Heymann upon the affirmative vote of Councilpersons Hennessey, Barad, Tutoli and Amitai.

Motion approving the following Resolution at 8:20 p.m. was made by Councilman Barad, seconded by Councilman Hennessey and declared carried by Mayor Heymann upon the affirmative vote of Councilpersons Hennessey, Barad, Tutoli and Amitai.

- 27b. OMNIBUS OPEN PUBLIC MEETINGS ACT RESOLUTION authorizing the governing body pursuant to N.J.S.A. 10:4-12 to exclude the public from the next portion of the meeting in order to permit the governing body to discuss per N.J.S.A. 104-12(b)(7), "Pending or anticipated litigation or contract negotiations"; and that the items under discussion in the closed meeting will be disclosed to the public at the conclusion of contract negotiations which should be between 6-8 weeks; and the litigation which will be disclosed at the end of this closed session..

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

Mayor Heymann resumed the Regular Meeting at 8:47 p.m. and asked for a motion approving the following Resolution which was removed from the Consent Agenda for discussion in Closed Session:

17. RESOLUTION APPROVING THE SETTLEMENT OF BER-L-02917-07
(Received from Borough Attorney 10/22/09)

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

29. ADJOURN

Motion to adjourn the Regular Meeting at 8:48 p.m. was made by Councilman Kashwick, seconded by Councilman Barad and declared unanimously carried by Mayor Heymann.

Provided to the Mayor and Council on
November 5, 2009 for approval at the
Regular Meeting to be held Monday,
November 9, 2009.

Loretta Castano, RMC
Borough Clerk

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

Approved at the Regular Meeting held November 9, 2009
Consent Agenda Item No. 20a.

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Mayor Heymann called the Work Session to order at 8:05 p.m.

1. ROLL CALL

The following persons were present:

Mayor Sophie Heymann
Councilpersons Thomas Hennessey, David Barad, Cynthia Tutoli and Victoria Amitai
Borough Administrator, Quentin Wiest
Borough Attorney, Edward T. Rogan
Borough Clerk, Loretta Castano
Borough Engineer, Nick DeNicola
Chief of Police, David Berrian

The following persons were absent:

Councilman John C. Glidden, Jr.
Councilman John Kashwick

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)

In the absence of Councilman Kashwick, no report was given on the following items:

- 1) STATUS REPORT RE CAPITAL BUDGET/CAPITAL PLAN
(RM 7/9/08)
- 2) STATUS REPORT RE CLOSTER WEBSITE
- 3) REPORT

B. PUBLIC SAFETY - GLIDDEN (TUTOLI/HENNESSEY)

- 1) REPORT – In the absence of Councilman Glidden, no report was given.

C. PUBLIC WORKS - HENNESSEY (AMITAI/GLIDDEN)

1) REPORT – Councilman Hennessey reported that the DPW Committee did not meet; therefore, he had no report.

D. ORDINANCE - BARAD (KASHWICK/AMITAI)

1) STATUS REPORT RE ORDINANCE COMMITTEE MEETINGS – Councilman Barad reported that at the last meeting they were able to introduce some of the ordinances that were discussed. The Committee will start working through the ordinances to try to weave in the green element that is built in the Master Plan. He expressed his excitement that he had spoken to John Lignos (Chairman of the Planning Board) about this, because as everyone was aware, the Planning Board had been tied up recently. They are going to try to weave in things so that it can be built into the ordinances that people can get something back for doing something good. The

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Committee hasn't done this yet, but it might be things like giving them some relief on impervious, i.e. if they put on a roof garden or something similar. There are ways of doing things that would encourage people to move in the direction of being more environmentally friendly; and if we can weave that into our ordinances and people can see it, we'll be able to enjoy some of those benefits. Dr. Barad expressed it was the most exciting thing he has seen come down; and he is grateful to the Planning Board and for the Mayor's leadership for helping get that green element into the Master Plan, which really is the thing that triggers this, since this is the opportunity to do that.

Mayor Heymann stated that Mrs. Amitai is in charge of the committee that will be doing that, but she believes the entire Planning Board will be involved as well.

2) REPORT

E. HUMAN RESOURCES - TUTOLI (KASHWICK/BARAD)

1) STATUS REPORT RE PERSONNEL COMMITTEE MEETINGS

2) REPORT – Councilwoman Tutoli reported that the Library and Fire Department are status quo; therefore, she had no further report.

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

1) REPORT – Councilwoman Amitai advised she had no report as she has been busy with all of the extra Planning Board meetings.

At this time, Mayor Heymann announced for anyone who wasn't aware, that the Planning Board has been meeting twice weekly from 7:30 p.m. to 12:30 a.m. to deal with the potential changes to Closter Plaza. She wished to express her sincere appreciation for the hard work that they have done in that respect, but also the total objective dedication that they have given to that job.

4. OLD BUSINESS

Mayor Heymann advised that the Borough Attorney had some old business to discuss. Mr. Rogan distributed to the Council a Resolution regarding the Alpine sewer connection to memorialize what was approved last month. This was just to follow procedure as we had in the past when we hooked up people under the 1994 Agreement.

5. NEW BUSINESS

Dr. Barad brought up that in the past they had considered charging people for parking places intermittently, and it has been a part of the Whole Foods application. He wanted to ask the Borough Attorney's opinion because adding parking is not necessarily helping the environment, and moving parking isn't necessarily helping, but would it be possible to use those funds to create a jitney service instead. Mayor Heymann responded that they had actually been talking about that recently. Mr. Rogan advised that as long as it is logically related to the issue then we could try to do that, as long as there was some nexus; the funds could not be spent on the 300 year party, but you could spend it if it was going to save on parking and congestion. Mayor

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Heymann informed they have been speaking to the applicant about same. Dr. Barad suggested making it part of a resolution so the money could be used either way. Councilwoman Amitai voiced her opinion that it was a good idea; and Mayor Heymann added she agreed, especially at those times of the year when there is pressure on the parking.

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

7. OPEN MEETING TO THE PUBLIC

Mayor Heymann advised there were no further reports and opened the meeting to the public.

Hugh Johnson, 107 Demarest Avenue, questioned Councilman Barad if this plan would include the community garden he had proposed to Councilman Glidden's son. Dr. Barad clarified that he was referring to building things into our ordinances that would give people the incentive to move in this direction. They are looking to change the framework of the way the ordinances are written to try to encourage people who are developing or building to incorporate these green elements. They will be the ones helping to make sure the ordinances happen, and they will be receiving advice from the Environmental Commission and the Planning Board; and it is an exciting time for people to be able to do that.

Mr. Johnson corrected that the Planning Board has been meeting until the limit of 12 o'clock p.m., not 12:30 a.m. He will be meeting with the representative tomorrow at 12:00 p.m. under the clock to discuss possible improvements and collecting funds for that improvement in time for the 300th Anniversary.

Jack Kelly, 132 Herbert Avenue, explained he wished to ask a question regarding the Whole Foods application, at which time the Mayor and Borough Attorney interjected and corrected that it is not the Whole Foods application, but the Closter Plaza. Mr. Kelly apologized and questioned if Jesse (Rosenblum's) lawsuit was still viable. Mr. Rogan advised that at this time, it is still pending. There are two cases that are still pending and were consolidated as of a week ago, which are the cases filed by A&P and some of the residents, and the case by Mr. Rosenblum. The part of the case concerning certain actions by the Planning Board has been dismissed because they were premature. The other part of the case is that the ordinance was not adopted properly, and that is the one that changed the maximum square footage in the business district. Mr. Rogan agreed with Dr. Barad that this is a claim; and, therefore, why it is a lawsuit. Mr. Kelly referred to the ordinance concerning square footage and asked if it was taken from the Master Plan or was it an ordinance on its own. Mr. Rogan advised there had been an ordinance previous to that, but that the Master Plan had made recommendations to try to work with business owners and developers to try to stimulate better business in town. One of the recommendations was basically that we do that, especially with regard to that part of town. So in regards to his question, the answer is yes for both of those reasons. At this time Mr. Kelly questioned if those two lawsuits would hold up the process. Mr. Rogan advised that would be up to the applicant. If the applicant was to be approved, they could still go forward with the

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development and proceed at their own risk in the event that the lawsuit happened to be successful. It would not necessarily stop the applicant; to answer his question, no.

At this time, Mr. Johnson addressed the Borough Attorney and informed he has been in touch with the attorney for A&P. He questioned why Mr. Robert Segreto of Segreto, Segreto & Segreto of North Haledon was representing A&P when they have an attorney who has been met by the committee for Whole Foods and wanted to know why Mr. Segreto is involved. Mr. Rogan responded that he is unaware but advised that companies employ more than one attorney. Mr. Johnson stated that he is not connected with A&P, he is an outside counsel. Borough Attorney advised that Mr. Segreto has represented to the Planning Board that he represents A&P's interests and the three named individuals in the suit. Mr. Johnson questioned why the A&P legal department is not representing them; and Mr. Rogan advised that it is a decision they make. They have inside counsel and outside counsel as a big corporation; and in response to Mr. Johnson's statement that he (Mr. Segreto) is not connected with A&P, he voiced his opinion that he finds that very difficult to believe.

Mr. Kelly informed the Mayor of his understanding that A&P's business is off by 20-30%; and added that the big shots were there last week and blamed the employees for not doing a good job; they're passing the buck.

8. DISCUSSION OF PUBLIC COMMENTS, IF APPROPRIATE
9. ADJOURNMENT

Motion to adjourn the Work Session at 8:17 p.m. to return to the Regular Meeting was made by Councilman Barad, seconded by Councilman Hennessey and declared unanimously carried by Mayor Heymann.

Provided to the Mayor and Council
on November 5, 2009 for approval
at the Regular Meeting to be held on
Monday, November 9, 2009

Loretta Castano, RMC
Borough Clerk

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

Approved at the Regular Meeting held November 9, 2009
Consent Agenda Item No. 20b.