

MAYOR AND COUNCIL  
BOROUGH OF CLOSTER

REGULAR MEETING MINUTES – OCTOBER 22, 2008 - 7:30 P.M.

The Mayor and Council of the Borough of Closter held a Regular Meeting at Borough Hall on Wednesday, October 22, 2008. Mayor Heymann called the meeting to order at 7:32 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 John C. Glidden, Jr., Thomas Hennessey, John Kashwick,

David Barad (7:36 p.m.), Cynthia L. Tutoli, Victoria Roti Amitai (7:40 p.m.)

Acting Administrator/Treasurer, John DiStefano

Borough Attorney, Edward T. Rogan

Borough Clerk, Loretta Castano

Borough Engineer, Nick DeNicola

Chief of Police, David Berrian

Fire Chief, Brian Pierro

Fire Official, Kevin Whitney

Acting Supt. of Public Works, William Dahle

Deputy Tax Collector, Maria Passafaro

Recreation Director, Jim Oettinger

Construction Official, Keith Sager

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.

Jack Kelly, 132 Herbert Avenue, reminded that Leonard Asch asked a question a couple of weeks ago regarding progress on the Open Space Fund. Mr. DiStefano asked if he was referring to details from years back and Mr. Kelly explained that it states in the Budget that at the end of 2007 there was \$1.3 million and \$969,000.00 of that was spent. It also states that there was no open space or land purchased. Therefore, he questioned what the \$969,000.00 was used for. Mr. DiStefano informed that he wasn't present at the meeting during which Mr. Asch questioned this and explained he would have to provide Mr. Kelly with an accounting of this.

Mr. Kelly also questioned the work that was taking place around the building and Mayor Heymann explained that they are economizing by finding additional space within the building at a much lesser cost than expanding outside of the building or increasing square footage outside of the building. It's an economy measure on their part, instead of tearing down the Borough Hall, as was proposed by previous administration. They are finding extra space by making openings where there were cubicles and so forth. As a result of that, they will be able to bring the Building Department back into the Borough Hall, with a saving of more than \$25,000.00 rent a year. Mr. Kelly thought the Building Department was self sufficient and Mayor Heymann agreed, but pointed out that their costs burden on the taxpayers. The \$25,000.00 they will be saving can be spent for other expenses that are necessary to maintain the Building Department. Mr. Kelly questioned if the town can spend monies that are raised by the Building Department; and Mayor Heymann explained that the Building Department is going to be paying the Borough the rental. Mr. Kelly again referred to Mr. Asch's question, noting that there was an article in the paper stating that Mr. Asch never showed up to the meeting to get an answer to this. Mayor Heymann explained she was not aware of the information to which he was referring. Mr. Kelly pointed out that he was referring to the Open Space Fund; and Mayor Heymann informed that this has been explained several times. However, Mr. Kelly explained that it was never explained to him; and Mr. DiStefano informed that he would have to get the details on this as he did not have it in front

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of him. Mr. Kelly explained that there was \$969,642.00 spent; and Mayor Heymann explained that it was spent for those items that are authorized by the Open Space Ordinance. She added that there wasn't a penny spent that wasn't properly authorized. However, Mr. Kelly pointed out that there was no land purchased; and Mayor Heymann informed there was none at this time, but there was money reserved for land purchases; the ordinance doesn't call for land purchases. Mr. Kelly informed that he was aware of this adding that the ordinance was originally designed to primarily buy land and open space.

Michael Kafer, 261 Parsells Lane, questioned what the Mayor had said that the Building Department will be paying rent to the Borough to be in town hall. Mayor Heymann informed that it is a paper transaction. She explained that she had said earlier that the amount of money that the Building Department is paying rent elsewhere can be apportioned to the Borough. Mr. Kafer asked if this meant that the Borough will be collecting rent from the Building Department. Mayor Heymann informed that it is not in dollars and cents, but it is a paper transaction.

Mr. DiStefano explained the process as follows: what happens when he fills out the UCC report, he is allowed to apportion part of the Borough's expense for his square footage that he uses; i.e. electric, phones and anything else that we have that we can apportion to him; he can use that as part of his expenses; that is by law. Mr. Kafer asked if they are charging the Building Department rent; and Mr. DiStefano answered they are not. Mayor Heymann added that she never said this; she said that the \$25,000.00 rental is not going to be spent, which means that other expenses can be apportioned to the Building Department. By law, the Building Department has to be even between the fees and fines they collect and the expenses they incur. Mr. Kafer voiced his understanding that the Building Department cannot operate at a profit to the Borough. The Building Departments collects it fees; in a down year, it collects less fees than in an up year. In the past, under a republican administration, they decided to rent outside of Borough Hall because there was so much extra revenue. Now that they are no longer going to rent out from a third party, they are bringing back the Building Department, but they are going to apportion them their share of the heat, electric, cleaning expenses, use of an administrator, etc. He asked if there will be an accounting of this; and Mayor Heymann assured there would be; Mr. DiStefano added that this was an accounting right to the State.

Jesse Rosenblum, 65 Knickerbocker Road, referred to next year's tax bill and explained that in the area of the pie chart, they add the total monies for schools; municipal, county. He questioned if they can put in the dollar total. Mayor Heymann agreed and voiced her understanding that Mr. DiStefano already explained this to him, noting that this is the first time they have the use of that box. That box is the only place on the bill where they have freedom to use as they choose. She has received a number of suggestions as to what to do with the box; and she was sure they would do the best they could for next year.

Christine Procida, 30 Hickory Lane, explained she has been serving on the Closter Planning Board for the past 12 years and she has chaired their last three rounds of the town's COAH Committee. They have successfully filed with COAH the first two rounds, which were approved. She is in attendance this evening because the third round came out in 2006 and they were to promptly file with the State for the requirements under the third round. Shortly after that, the Borough hired a Planner and they proceeded with the third round. She informed that she attended the Joint Meeting of the Boards and made a brief presentation of what they were doing on the third round. They then proceeded to the public hearings and the Mayor and Council as well as the Planning Board adopted the third rounds; that was in 2006. Shortly after, a few of the municipalities sued or threatened lawsuits and COAH was forced to examine the requirements in the third round. They didn't base it on vacant land any more than they were basing it on development, building permits, commercial development and things of that nature. She explained that basically what happened was that at some point within 2008, there were new rules issued. So the plan they filed needed to be amended to meet the new regulations under the third round. Therefore, she is here this evening because the State is now requiring that every municipality file by December 31, 2008. They eventually received this information around July or August of this year and they proceeded to have to hire a Planner to modify their plan. Fortunately, they didn't have to make too many amendments. The unit count that COAH assigned to Closter is only different by one, so the plan that they have in place – their affordable housing component of the plan, which basically talks about what zones can develop affordable housing – is very solid; and it totally supports the third round. Not that many changes are needed, but they do need to make a few changes in order for it to get approved. Therefore, she explained that they will be doing this and they will be having a public hearing for same. She simply wished to bring it to their attention at this time, instead of just showing up for the public hearing and having it sprung on them. The Attorney that the town hired is in attendance if they have any questions. The amended third round requires 37 units and it was 36 before.

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Mayor Heymann explained that she passed information around to everyone at the dais, noting that page number two of the stapled material is the preliminary report from Hakim Associates; the information that Christine is referring to is right in there. She offered it to anyone in the audience who might want to see it. Ms. Procida didn't appreciate the fact that they received the information so late informing that they must file by December. However, they have done somewhat of a thorough review, as they did submit in 2006. If they wanted to contest the unit count they gave Closter, she thinks that they can do so in a letter form and still submit, because of the time constraints. Her recommendation is that they clearly submit the plan that they have in place that they previously approved and they can do it conditionally. At least, this way, they will have a plan in place and they will be protected and they can reserve the right to argue it later if they want to.

Mayor Heymann reiterated that anyone in the audience is welcome to the information they were reviewing and referred to page one. She explained that they will see the timetable that includes the passage of a revised round three affordable housing plan. Mr. Glidden questioned what the time period was for the 37 units to be in place. Ms. Procida explained as follows: to understand COAH, this is a misconception with a lot of people; you are not obligated to ever build those units; it's the town's obligation to provide for the development of those units; because a lot of towns don't have, for example, the zoning for townhouse development. Mr. Glidden asked for clarification that they have to provide for 37 units whether they are built or not; and Ms. Procida informed that they have to provide a place for that development to occur.

Michael Hakim, Hakim Associates, in attendance with Kristen O'Donnell, his associate, explained that they have an obligation to enable it to happen by creating proper zoning provisions. They have a further obligation this time around, which was not an obligation in earlier rounds, to provide incentives and encourage it to happen. In response to Mr. Glidden's inquiry, Mr. Hakim informed that this would take them through until the end of 2018. Ms. Procida referred to the plan they have in place, noting that they already know it satisfies COAH, because they've already approved it. She explained that they could include more if they wanted to take it further, but what they have now satisfies them and they are happy.

Mrs. Amitai referred to the numbers that Mr. Hakim provided to them and asked if the potential apartments for downtown Main Street were included in that. Mr. Hakim informed that in fulfilling the third round obligation, they do have an allocation for that. Ms. Procida explained that it would be an overlay zone over the commercial district to permit apartments above commercial uses and office uses just in the commercial district. That would not be constructing the units; it would just be providing the zoning and incentives for a developer to come in if they choose to do that. Mrs. Amitai questioned if the current apartments were included; for example, she questioned if the Borough could offer incentives to the owners of those buildings who have apartments there now. Ms. Procida informed that they are not included, adding that those need to be affordable rent and they need to be residents living there who qualify as low and moderate income under COAH's regulations. There are a number of steps they would have to take to get those apartments to be in compliance.

Mrs. Amitai referred to Spectrum and voiced her understanding that they were not included in the last round. She asked how many credits they could get for Spectrum; and Ms. Procida explained that there are two Spectrum facilities. One of the facilities was constructed in 1983 and it has approximately 54 occupied bedroom units right now and they are undertaking a six unit expansion, which are not occupied as of right now. That facility was not credited under COAH and she spoke with a representative of Spectrum today and a representative of COAH previously about this facility. They think that it was just a problem with not getting the proper documentation and they didn't see a problem in the future, when they get that documentation to them, to credit that facility. Mrs. Amitai questioned how many credits they would get for that; and Ms. Procida explained as follows: under the new, revised COAH rules, they have put a cap on non-family units; by non-family units, she means these Spectrum for Living units are not for just any particular moderate income person; it has to be a developmental disability; so those won't qualify as family units; but they put a cap on those types of units at 50% of the total growth share; so that is 19 of 37; Closter would only be able to receive up to 19 credits for units reserved for physically or mentally disabled people.

Mrs. Amitai referred to the carriage house, noting that there is something coming before the Planning Board with two or four units that are going to be affordable housing. She questioned if these were included in these numbers and Ms. Procida informed that the Village School project is included. Mrs. Amitai informed that it is on Old Closter Dock Road and it is before the Zoning Board of Adjustment, so it is not final yet; nothing has been approved. She asked if anyone knew if it was two or four units. Mr. Glidden pointed out that the answers to all of the questions Mrs. Amitai is asking are included in the information that was provided to them. Ms. Procida informed that the carriage house project is not included and this is the first time she is hearing about it. Borough Attorney explained that they wouldn't have it until it's approved. Mr. Hakim

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added that if they knew the proposal was to make it COAH certifiable, then they could put it into the plan. Ms. Procida explained that when she knew that Village School was under application with the Zoning Board, she reminded them to make sure that there was an affordable component so that they could be included in the third round. Things like this are good to bring up now so that when they get to the public hearing, this is already incorporated.

Mrs. Amitai referred to senior housing and asked how they would go about getting credit if they had senior housing in town. Ms. Procida reiterated that they had a requirement of 37 units and she thought that they were in good shape. Mr. Hakim informed that they are required to have up to 25% of age restricted, noting that the four units that are going to be coming out of the Village School project are clearly well below that 25%. Mrs. Amitai asked if age restriction and senior housing were considered to be the same thing and Mr. Hakim agreed, adding that they may be subject to the CAP on the maximum non-family type units. However, they have crafted a plan that is outlined in the documentation they have before them, which clearly accommodates 37 units over the next ten years.

Ms. Procida explained that they had some discussion about the two-family homes in Closter and how some of them are not in compliance and the possibility of doing some sort of an incentive program to bring them up to code; and if they were brought up to code, they would allow for them to stay two-family – as long as it is a COAH unit. It began to get very complicated for this plan. She offered to have further discussion on it, noting that it would be nice to have them in compliance and to be COAH units. However, she reminded that the Planner feels that they are satisfying what is being requested of them.

Mayor Heymann pointed out that there will be an official public hearing at the Planning Board on October 30, 2008 and she invited all to attend this meeting to address any issues they had. She added that Ms. Procida would be there to answer anyone's questions. She further explained that after the Planning Board has approved the plan, it has to come back to the Mayor and Council for approval, which will take place in November or December. She assured that she would keep them abreast of the information.

Mr. Hakim explained as follows: the process is that the Planning Board will conduct a public hearing on the 30<sup>th</sup>, where they will, hopefully, adopt the Fair Share Plan as an element of the Master Plan; and then the hearing before the Mayor and Council will endorse the Planning Board's action and authorize submission to COAH; there are also going to be some Ordinance modifications that all have to do with the affordable housing to bring them up to contemporary standards; all they need to do is be in draft form at this point for submission; so they would provide the Borough Attorney with the substance of those changes and ask that he draft the revised ordinances for attachment in their draft form; while there were several options for accommodating the need for 37 units, as a group, they selected those that they felt would have the least impact on the fabric of the community. Mayor Heymann thanked all three of them for showing up to have discussion about this issue this evening.

Joe Bianco, 7 Mac Arthur Avenue, explained that in his professional experience, he has been involved in the destruction of 3,000 public housing units that were improperly planned. He was also involved in the construction of over 2,000 new types of affordable housing at the expense of over \$300 million. He asked that they round off the 37 units to 40 to use as an example. He pointed out that they mentioned incentives or ways to accomplish these units; he questioned if they could do it through the builder's remedy. Mr. Hakim explained that they are trying to avoid this; builder's remedy is an action taken by a builder who comes and brings an action against a municipality an exclusionary zoning lawsuit and satisfies a judge that the municipality has not fulfilled its obligation to provide for affordable housing. They are not looking to do this. Mr. Bianco voiced his understanding that some of the ordinances allow for a 5:1 ratio, with a set aside of 20%. He wanted to know if that would be changed. Mr. Hakim informed that they are suggesting modifying this ordinance. Mr. Bianco asked if the 20% would be eliminated. Mr. Hakim explained that he could not answer that yet because right now their focus has been on the Fair Share Plan and their next effort will be the modification of the ordinance. In response to Mr. Bianco, Mr. Hakim agreed that if there was a 5:1 set aside in the past ordinance, then clearly these 40 units could represent an inclusion of over 200 new houses within Closter. Mr. Bianco voiced his understanding that this would represent an approximated 10% increase in the housing stock with about 2,000 houses; and Mr. Hakim informed that this could be right if his numbers were correct. Mr. Bianco read the report and congratulated Ms. Procida for seeing this through. He suggested that there be a public work session on this prior to any proposal before the Planning Board or the Mayor and Council. He suggested they have others, such as Chairmen's of Zoning Boards, Planning Boards, Environmental Commissions, Shade Tree Commissions, etc. and really have a round robin discussion on which way they are going; instead of having a report put in front of them and then rubber stamped.

Ms. Procida interrupted saying that this is their third round plan from 2006 and has already been through the public process. She advised that this is the same exact plan that has already been

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approved and nothing has changed, except for the regulatory things that COAH asked for modifications on. The zoning hasn't changed one bit. She welcomed a conference call on the topic between herself and him along with the Mayor and the existing COAH Committee.

Mayor Heymann explained that there was not enough time for a meeting before October 30, 2008, but assured that they are open to any suggestions before that time. Mr. Bianco then gave Mayor Heymann a letter addressed to her from COAH dated 7/24/08. He explained that although the third round plan has already been worked on, there have been additional changes to the law. Mr. Bianco finished by saying that the physical design of this town will drastically impact on the fiscal amount of taxes that they pay. He is all for affordable housing, but wants to make aware the tax abatement, rebates, and pilot programs that may cause a burden on our current tax payers.

Jim Oettinger, 25 Carlson Court, Closter Recreation Director, explained that he was here this evening to ask the Mayor and Council for permission to close Memorial and Ruckman Fields for the winter. This would enable the fields to recover from usage during the fall and summer sports. The plan would be to close the grassy portions of the fields on Saturday, November 8, 2008 and look to open them up sometime in April, weather permitting. He added that opening day would most likely be April 18, 2009. He gave everyone a copy of the letter he sent. He also added that at the last Recreation Commission meeting, the Mayor had asked them to discuss their feelings regarding field usage and rental by outside organizations. The Recreation Commission felt that usage should be considered on a case-by-case basis and that fees should be charged in the hopes of collecting funds for the Borough; especially in these times of economic need by all Borough Departments. There should be a follow-up meeting with whomever from the Mayor and Council to set fees and decide which organizations they would open up the fields to.

Mr. Oettinger requested for them to possibly grant approval to close the fields. Mr. Glidden pointed out that one of the experts had looked at the field and provided some advice and Mr. Oettiner agreed, adding that Tony Lupardi, who has their field maintenance program, was in attendance. Mr. Glidden asked that Mr. Lupardi briefly discuss this with them, as he thought it to be an important issue for the protection of these fields.

Tony Lupardi, 71 Blanch Avenue, explained that the fields get compacted from the usage, so what they do is core aerate them and seed them. Closing them right now just gives them time to revitalize and grow again. They have the best fields in Bergen County and this is also a safety issue. With the fields being the way they are, as the kids fall, they are falling on cushion. If they don't give the field a chance to revitalize itself, it's just going to go downhill. Mr. Glidden asked if they needed a Resolution to approve this and Mayor Heymann said yes, adding that she would welcome a motion to permit the fields to be closed for ball games, but not to individual people. In other words, they are not closing the fields for anyone who chooses to walk their dogs on the fields; they welcome dogs on the fields. The motion would be to close the fields from November 8, 2008 to sometime in April for any kind of ball games or other sports.

In response to Mr. Hennessey, Mr. Oettinger explained as follows: in the past, they had put sod down at Memorial in 1997 and then at Ruckman in 2001; they put signs up indicating that the fields needed time to recover and to stay off of them; they were finding kids going down there playing football, hanging their jackets on the signs; so it was kind of counterproductive; they ordered new signs last year, which he spoke to the Chief of Police about; they just wanted the Mayor and Council's approval; but it would basically just be for organized sports; if someone is walking on the fields, they don't care; it's just the touch football games; if someone is playing baseball, they would ask them to go to another park in town; what has happened in the past is somebody sees somebody down there and then somebody else shows up and it turns into an organized thing.

Dr. Barad asked if they could make the signs have some clarity in that regard. For example, if it just says that the field is closed, then somebody might not even think that they are supposed to walk on it. In fact, somebody who is charged with enforcing that may easily think that they should enforce that. Mr. Oettinger informed that they could look at that and explained that the people who walk their dogs know that the fields are open. Dr. Barad voiced his opinion that if they want to post something, it should have some clarity and Mr. Oettinger asked for some suggestions. Dr. Barad suggested that they get a sign that says that the fields are closed to any organized sports activities. Mr. Oettinger said that this would be good; however, he thought there was a problem with using the term organized sport. Mr. Oettinger voiced his understanding that the signs indicated that the fields were closed to Closter athletic activities. Dr. Barad assured that they would agree upon something similar. Mayor Heymann added that Dr. Barad and Mr. Oettinger could get together to discuss this. \

Mrs. Amitai asked if there was a reason that these two specific fields would be closed and the others would be open. Mr. Oettinger explained that they spent a lot of money on the fields putting down new sods and irrigation systems. These fields have sod that they have been able to maintain by closing for the winter. Recreation has no control over the other fields in town, such

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as Tenakill, so the school does whatever they want. Shauble Park is pretty much beat up right now, so they use it as a catch all field, also giving the residents a place to go throughout the winter. Mollicone Park gets a lot of heavy usage early in the year for baseball and softball and there is really no sense in closing it, because of that heavy usage. The two main grass fields/parks that they have spent a lot of money on and also that by closing them, they will be able to come back very strong, are the ones that they really want to maintain. Mrs. Amitai voiced her understanding that if somebody really wanted to play a team sport, they could go to one of the other fields. Mr. Oettinger agreed, adding that they have three other places they can go – Tenakill, Shauble and Mollicone. They are not looking to give anybody tickets; they are just looking for some support from the Mayor and Council and the Police, if necessary.

Mayor Heymann asked for a motion. Mr. Hennessey pointed out that last year; they had a sign down there saying that the field was closed by order of the Police Department. He requested that they avoid this type of language and simply have a sign to keep off the grass. Mr. Oettinger explained that the problem with this is that they have had people challenge him that he is not an appropriate official to tell them to stay off the field. He thinks they need some teeth to it. Mr. Hennessey agreed that they need enforcement, but thought that it was overbearing to have a sign that was by order of the Police Department. Mayor Heymann voiced her opinion that it should be up to Mr. Oettinger and Dr. Barad to come up with some good wording and again asked for a motion.

Motion to close the fields from November, 8 2008 to April for athletic activities was made by Councilman Glidden.

Mr. Kashwick asked if this would preclude flying a kite or tossing a frisbee, noting that they should clarify it a little bit more than just athletic activities. Dr. Barad suggested that they will come up with something that defines it better and they will bring it up at the next meeting. Dr. Barad explained that they could temporarily close it for the next two weeks and come up with a more permanent thing. Mr. Glidden would like to pass the Resolution tonight that they will close them as of November 8, 2008; the language to be defined and the sign to be defined. However, did think that the sign should read, “per ordinance”. Mayor Heymann clarified that part of the motion he is putting on the floor is that the signs will be defined and Mr. Glidden agreed.

Said Motion was seconded by Dr. Barad and declared carried by Mayor Heymann upon the affirmative vote of Councilpersons Glidden, Hennessey, Barad, Tutoli and Amitai; Mr. Kashwick Voting No.

At this time Mr. Glidden asked what Mr. Oettinger was suggesting on the usage of the fields in terms of renting them out on a case by case basis. Mr. Oettinger explained as follows: he would like to set up a committee; as he sits there and is so rabid about closing the fields, he would be the first person to not let the fields get ripped up by an outside organization; some of the requested that had come forth was of Kiddie Soccer, that he didn't even talk to the guy; he just referred him to the Mayor and Council; there was a guy who wanted to have offered kindergarten soccer for kids while school was going on for Pre-K kids; to him, if this guy was going to pay them for the use of the fields, they were going to watch that the fields were not overtaxed, overburdened; and the Borough was going to be able to get some money for it, he thinks it is a win, win, win for the community; other organizations, where the situation where CORE in town has been a good neighbor to the Borough with a lot of the things they are doing, why don't they have a summer camp there; unfortunately, he was out of town and other people came down and spoke, but the thing that came up was a lot of opposition because possibly the field was going to be used; most of the time, the fields sit empty all day long; if there is inclement weather, they shut the fields down; if there is a ballgame, they put up signs indicating that there will be no games that day and to stay off the field; they would want to supervise it; they are talking about if they have the facilities and the fields are in good shape; and because the fields are closed for the winter, that is the reason they have them in such good shape for the spring, summer and fall that they can do this.

Borough Attorney advised that if the Borough decides that it will lease out public property, it has to go out for public bid. Mr. Oettinger explained that if they had the leave time, they would have to go out to bid if somebody wanted to use the field for something. He thinks that when they get these requests from organizations, they should seriously consider them. Mayor Heymann voiced her understanding that his intent was to do ad hoc and she explained that what the Council would like to see is a set of guidelines as to what the Recreation Commission thinks is appropriate for Closter. If he goes back to the Recreation Commission and ask them to develop guidelines as to who, what where, how much and under what circumstances, then the Council would have a template to work with and make a decision.

Mr. Glidden stated that he has been involved with the Recreation Commission on a monthly

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basis for quite some time and he has been a coach in the Closter Coaches Association as well. He thanked Mr. Oettinger for his public service, noting that they cannot fathom how much time he really puts in to one of the greatest recreation programs in the Northern Valley. Mr. Oettinger publicly acknowledged Billy Dahle and the work of the parks department. Billy Howard and Mr. Dahle's crew, who take care of the parks, work tirelessly. They really care about the parks, which is the reason they have such great parks. Mayor Heymann thanked all of the parents and youngsters who attended the meeting this evening, adding that they are more than welcome to join in any other time.

Hugh Johnson, 107 Demarest Avenue, explained that it has come to his attention that the present Construction Code Official is not going to be re-hired after his term expires in August of 2009. He asked if anyone wished to comment on this. Mr. Rogan advised that the Council is not in any position to comment on this, as it is a personnel matter. The appointment is not up, there was no vote on this; and the Council has been instructed not to answer the question due to the fact that it is a personnel issue. Mr. Johnson explained that there will be an election and an injunction in November to remove this individual, based on a competency hearing, based on the recommendation of the H.R. Committee.

Mr. Johnson questioned if the H.R. Committee has met on this issue and what their recommendations were. Mayor Heymann informed that the Borough Attorney just provided him with an answer about this topic. Mr. Rogan explained that this question can be answered yes or no; however, in terms of the recommendations that may or may not have been made, it is not available to the public. Mr. Johnson informed that he will not stand for the citizens of this town to pay a salary of what he considers a tyrant and bully, who has two harassment charges against him and one charge from Mr. Johnson of attempted aggravated assault. He encouraged them to advertise for and pursue a replacement as soon as possible, in the interest of justice for this town.

Steve Isaacson, 97 Columbus Avenue, voiced his disappointment with the Council, excluding Mr. Kashwick, regarding the authorization of closing the parks. They even admitted that there is a need for the parks to be open, as the public wants to do things on our park grounds. It seems as though they are spending taxpayer dollars to develop something that is now turning into a business to raise more money for the Borough.

As a citizen, Mr. Isaacson informed that he is no longer in favor of buying the Flamm property. Because of the economy and the debt that the State and the Borough of Closter will be in, if it isn't in a recession already, he didn't think that they should spend the money. He thought that they should have it cost the Borough nothing if they absolutely had to spend the money. For example, \$500,000.00 is the grant and that's what the property should cost; nothing more. Mayor Heymann informed that they had two grants to cover this and the money has already been allocated. Mr. Isaacson voiced concern that it is still coming out of their pockets, as the grants are funded by the taxpayers; and Mayor Heymann insisted that it doesn't, noting that the grants have already been allocated. Mr. Isaacson pointed out that they could renegotiate for less money. He explained that they are giving up income tax revenue and a property that no one has bought to date; and with the way the economy is, he doubts that anyone will buy it.

Fred Pitofsky, 7 Pearle Road, reminded that he had complained about the pictures of the mayors about two months ago. He voiced his opinion that it is not fair to the former mayors, noting that the two frames are in different spots; one of which is not visible to the public. Mayor Heymann explained that she took them down and none of them are there right now, as she is trying to fix them. He pointed out that it should be together.

As Insurance Commissioner, Mr. Pitofsky questioned if they received the safe driving DVD; and since no one got it, he informed that he would provide same. Referring to the Elected Officials' Seminar, he informed that they get a \$250 discount for each Council person who attends in Atlantic City. The session is scheduled for Wednesday, November 19, 2008, at 3:45 p.m. in Room 303 and there is another one on Tuesday, November 18, 2008. He questioned if they knew who was going; and Mayor Heymann informed she was planning to make a point of this, adding that she appreciated his reiterating this.

Steve Isaacson, 97 Columbus Avenue, thanked Mary Mayer and all of the people from the McBain Farm for making the first annual Harvest Fest a rousing success. There were many parents and children who showed up; and everybody got introduced to their park and farm; it was great. Mayor Heymann added her thanks to the Environmental Commission for setting that up. She described it as a rousing success, noting that Mr. Glidden was very busy getting s'mores ready. They actually ran out of supplies because there were so many more people than they anticipated. She added that before the Farm Open House, the Historic Commission had an Open House at the Auryansen Cemetery. They had one of the owners of the cemetery, who is a County Historian, Tim Adriance, who spoke for two and a half hours straight without a break. It was an

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absolute wonderful lecture that she would have hoped more of them will hear at some future time. If he does that again, she recommended it, noting that he was fabulous at giving them some historical background. He took them back into the mid- 17<sup>th</sup> Century.

Jack Kelly, 132 Herbert Avenue, asked if the cemetery was being maintained; and Mayor Heymann informed that it was, adding that the Historic Commission received a grant, plus some grant money from the Open Space Fund. Mr. Kelly reiterated his question; and Mayor Heymann assured the cemetery was being maintained.

Jennifer Rothschild, 32 Hickory Lane, referred to the cemetery maintenance and pointed out that an Eagle Scout from another town – New Milford – by the name of Jonathan Nieto, came in with about 20-30 people on Saturday, September 20, 2008, and completely cleared the cemetery of all poison ivy, including every twig, vine and branch. All of the fences were cleared as well. This made it possible for them to have the event on October 18, 2008 and they intend to invite him and possibly invite him to the Council. In addition, prior to this, in the spring, a local tree service company did the work and also did a commendable job. The cemetery probably needs regular maintenance twice a year.

5. PUBLIC HEARING RE REQUEST FOR WAIVER OF SIDEWALK REQUIREMENT (CODE CH. 171, SECTION 29A(2) FOR PROPERTY AT 75 HARRINGTON AVENUE FOR APPLICANT JAYSON MICHELMORE (4. M.L. 10/9/08)

Jayson Michelmore, 75 Harrington Avenue, explained he was looking to obtain a waiver for the sidewalks and curbs for this particular piece of property. He explained that on that side of the road on Harrington Avenue, there are no curbs or sidewalks right now. If you look at the present properties there, they are all a little bit lower than the street. If he were to install curbs and/or sidewalks there, he would be pushing the water off on to other people's properties. He provided pictures at this time.

Borough Engineer explained that when an applicant comes to the Council for a waiver of curbs and sidewalks, the Council procedurally requests that the applicant post monies in lieu of construction of curbs and sidewalks. This allows the Borough to construct them elsewhere where it is needed in the town. That is what the past practice has been; and the Borough would have the right to request same from the applicant. In response to Mrs. Amitai, Mr. Michelmore informed that it is on the north side of the street, noting that there are no catch basins along that side of the street to catch the storm water. Therefore, if he were to install a curb, it would be pushed off onto other people's properties. There is a driveway right next to his property that goes back to the flaglots, so a lot of water would be diverted down that driveway towards those properties, which he thought to be unfair to those people.

Mr. DeNicola informed that he would have figures shortly; he thinks they can figure it out for him. It's going to be the going rate for both concrete curb and concrete sidewalk for the Borough's last project. In response to Mayor Heymann, Mr. Michelmore assured that he was aware of the procedure.

Motion to approve the waiver of the sidewalks, providing they put monies into the general fund for curbs and sidewalks elsewhere was made by Councilman Hennessey, seconded by Councilwoman Amitai.

BEFORE ROLL CALL VOTE, Borough Attorney advised that they must open the hearing to the public before a vote is taken; and Mayor Heymann asked if anyone in the public wished to be heard regarding this ordinance.

Keith Sager, Construction Official, voiced his concern that this area is within one square mile of the schools and they need to make the neighborhood a safe one where children can walk on the sidewalks. Sidewalks are supposed to be to improve the town; and Harrington Avenue is a main street in town. He thinks they should start a precedent so that people have to start installing sidewalks. He doesn't think the catch basins are a major issue. He also voiced his understanding that the Borough Code states that.

In response to Mayor Heymann, Mr. DeNicola explained that the grant proposals they submitted had sidewalks on the south side of Harrington Avenue, with a continuation of the sidewalk from the Exxon site, all the way up to the Closter Tenakill School sidewalk. Mr. Michelmore informed that the south side of the road is higher than the north side of the road. Mr. Kashwick questioned if it would be appropriate to install a sidewalk without a curb and Mr. DeNicola explained that this was a possibility. Mr. Hennessey pointed out that this individual's sidewalk would be below the level of the street. In response to several inquiries, Borough Engineer voiced his concerns about installing a curb in this area; and Dr. Barad voiced concern

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regarding setting precedent. He didn't think they should be waiving the requirement for some people and not for others. There must be a policy for this and they need to define where they would really like to enforce this ordinance.

Mayor Heymann explained that when the Council grants a waiver for a sidewalk, the owner or developer who gets said waiver, must pay for an equivalent amount of sidewalk within Closter. That gives them the opportunity, at no cost to the taxpayer, to put the sidewalk where they need it the most. They had already formulated the notion that they need to put sidewalks on the south side of Harrington Avenue, as this is the way the youngsters take to go to Tenakill School. If they waive this particular sidewalk on the north side, it will give them the opportunity to build on the south side, where they really need and want it. It is not a matter of forgoing sidewalks; but it is a matter of having the choice of installing sidewalks where they need them at no cost to the taxpayers. Mr. DeNicola pointed out that the sidewalk fund is mostly funded by people who obtain waivers for curbs and sidewalks.

In response to Dr. Barad, the Borough Engineer explained that they generally don't grant waivers for sidewalks on County roads, as they are main roads and there needs to be a safe place for pedestrians to walk. Mr. Hennessey suggested that they go out and look at the areas that they are concerned about, so they can make a better judgment.

Jack Kelly, 231 Herbert Avenue, pointed out that this area floods and questioned if they could get catch basins and pipes to run to the brook. Mr. DeNicola explained that the Borough doesn't normally install drains on County roads. The Borough doesn't want to expend Borough funds on a County road. It can definitely be done if the Borough so chooses; they can do their own project there. Chief Berrian pointed out that the flooding that occurs in this area is a result of the reservoir rising; and all the storm drains in the world won't fix it.

At this time, Borough Attorney informed that he would prepare a formal, memorialized resolution, with the dollar amounts and square footage. Borough Clerk asked that the motion on the floor be repeated.

Motion to grant the waiver of the sidewalks and curbs, providing monies be put into the sidewalk and curb fund was made by Mr. Hennessey.

At this time, Mrs. Amitai asked what they do in a situation like this, noting that she would second the motion for sidewalks and no curbs. Therefore, she withdrew her previous second to the motion.

Said Motion was seconded by Councilman Barad and declared carried by Mayor Heymann upon the affirmative vote of Councilpersons Glidden, Hennessey, Kashwick, Barad and Tutoli; Councilwoman Amitai voting No.

6. COMMUNICATIONS

a. MAIL LIST – OCTOBER 9, 2008 – 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: Borough Clerk referred to Item No. 8.

Item No. 8 - Received 10/06/08, dated 10/06/08, from Anthony Fontana, Chief, Bureau of Transfer Stations & Recycling Facilities, NJS Department of Environmental Protection, Division of Solid & Hazardous Waste, to Loretta Castano, Clerk, regarding Application for a Solid Waste Facility Permit Renewal MIELE SANITATION CO. TS, Closter Boro, Bergen County, Facility ID No.: 131858, Permit No.: TRP070001 (letter only!) (Copy to William Dahle/letter only!) COMPLETE COPY ON FILE IN BOROUGH CLERK'S OFFICE re responses from Application re deficiencies found in submittal dated 10/9/07; Notice of Deficiency issued on 5/6/08: Applicant responded on 9/4/08; Notification that records will be held open on this matter for 30 days from date of letter to permit reply; Acting Administrator; Borough Attorney

Borough Clerk asked that this be followed up on, noting that the deadline for this is approximately November 5, 2008. Mayor Heymann informed the Borough Attorney is making note of this for follow up.

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b. MAIL LIST – OCTOBER 16, 2008 – 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: Mr. Hennessey asked that Item No. 6 be removed; Mrs. Amitai asked that Item No. 10 be removed.

Item No. 6 - Received 10/15/08, dated 10/14/08, from Christopher A. Erd, Esq.; cc: Jesse Rosenblum (via fax and regular mail); 60 Railroad Ave, Closter, Deed Violations; Borough Attorney

Mr. Hennessey voiced his understanding that this is for Mr. Rogan in regard to the issue that Miele never developed the property in accordance with the deed. He asked if the fact that Miele never did this puts him in violation. Borough Attorney explained as follows: there are a number of issues on that; one of which is the exact wording of the deed; the other is a pre-emption issue that they need to look into; at the time that deed was written, that operation was not considered a public utility by the State; since that time, it has been declared a public utility and the State took jurisdiction over certain issues; the legal question, which he didn't have an answer for this evening, is whether or not that action by the State would pre-empt both the deed and any zoning regulations that the Borough may have on that; there is also a provision in the deed that defines reasonable period of time as 60 days after the C.O. is issued; so there is also a question as to whether or not, since the building wasn't built, whether the intent of the parties was satisfied; so that still needs to be developed; they have to go through historical research to find out what happened on that application and what the State did and when; and he will get back to the Council on this once they get it done which is going back approximately 18 years of records

Jesse Rosenblum, 65 Knickerbocker Road, explained that when Miele purchased the property and agreed to the conditions, he gave up his rights to object and to any claim that the DEP has jurisdiction. When he had his original properties, he could go to the DEP and the Borough can't touch him, because DEP has jurisdiction over solid waste. However, in a case of the Borough's property, he gave up his right to claim that the DEP had jurisdiction. Mr. Rogan voiced his understanding that this was his contention and that there has been a lawsuit filed regarding same. He didn't know that the Borough has been served, but he noted that if this is part of that litigation, they cannot have a discussion about it. It should have also been disclosed at the last meeting when the issue was brought up, so that they avoided a public discussion of something that is pending litigation. Mr. Rogan explained that for some reason Miele apparently was served and the Borough was not. Mr. Rosenblum explained that he didn't receive any papers that Miele was served; and Mr. Rogan explained that this was his understanding and he was not fully aware of the status of same. However, the Borough has not received any papers on it. He further advised that since it is pending litigation at this point, they are not in a position to have this type of conversation. From the Borough's perspective, this is going back 18 years since the original deed; and the Borough needs to do some research as to what happened, the timing of it, why the building wasn't built, what the State's position is on this and whether or not there are preemption issues. Mr. Rosenblum voiced his understanding that time is not a factor; and the Borough Attorney explained that it is a factor in that they don't have the records readily available. Mr. Rosenblum informed as follows: that approximately five or six years ago, the Planning Board made a Resolution that was sent to the DEP, because the DEP brought up the issue of license renewal; so the Planning Board made a 10-page resolution and the Board Attorney was Contillo, who is now a Superior Court Judge; and Miele didn't wish to participate before a board with any input; what Contillo put into the resolution is the fact that if that deed condition is not upheld by a court, that no Borough would ever make a deal like that; therefore, what Contillo was saying is that deed restriction is like iron clad. Mr. Rogan understood, but reiterated that they must still go over 18 years of documents. In response to Mr. Rosenblum, Mr. Rogan explained that he didn't think it was as plain as Mr. Rosenblum was describing, but since it is in court, they need to see what their position is first.

Mayor Heymann informed that they couldn't say anything about it at the moment anyway and thanked him for his input. Mr. Rosenblum explained that after a complaint is filed, the Borough then files an answer. Mr. Rogan pointed out that this happens after the Borough has been served. Mr. Rosenblum explained that at some point in time, they will need to make up their minds as to whether they wish to side with the people of Closter or Miele. However, Mr. Rogan reiterated that they still haven't seen the complaint, so it is hard to answer the question.

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At this time, Mr. Sager referred to Item No. 11 on the Mail List of October 9, 2008.

Item No. 11 - Received 10/07/08, dated 09/25/08, from Gail Warming-Tanno, Borough of Alpine Clerk to Borough Clerk's Office, regarding Copy of the following Zoning Ordinances adopted 9/24/08 (Copy to Planning Board, Zoning Board of Adjustment, Zoning Officer):  
a.1) No. 687, "AN ORDINANCE TO REQUIRE AS-BUILT DRAWINGS TO CONFIRM HEIGHT CONFORMANCE WITH PRIOR APPROVALS OR BUILDING REQUIREMENTS"  
2) No. 688, "AN ORDINANCE TO AMEND THE SOIL MOVING ORDINANCE TO COINCIDE WITH THE TREE BUFFER REQUIREMENTS"  
\*Copy of following Ordinance introduced 9/24/08 and scheduled for public hearing on 10/22/08 @8 p.m.:  
b. No. 691, "AN ORDINANCE AMENDING SECTION 220-14 OF THE CODE OF THE BOROUGH OF ALPINE ENTITLED "DEVELOPER'S FEES" TO CONFORM WITH THE COUNCIL ON AFFORDABLE HOUSING'S RECENTLY ADOPTED THIRD ROUND REGULATIONS; Amitai/Planning; Hennessey/Zoning

In response to Mr. Sager, Mayor Heymann explained that when he called it to her attention, she investigated it. She spoke to Mr. DeNicola, who said that it is possible to do that. Mr. Sager questioned if it was worth putting it into an ordinance. However, Mayor Heymann explained that this is not their ordinance; it is Alpine's. They are not doing anything with it.

Item No. 10 - Received 10/16/08, dated 10/16/08, from David Oster, Section Chief, Bureau of Northern Field Operations, NJS Department of Environmental Protection, to Marie Hartwell; c: GeoWorx; Clerk, Closter Boro; Local Health Department, regarding Progress Report Approval re 1 Bradley Place Site, Closter Boro, Bergen County, SRP PI# G000038188 EA ID#:SUB080001, BFO File 02-07-30 (Copy to Lou Apa, Keith Sager); Barad/Board of Health

Mrs. Amitai questioned this and Mr. DeNicola explained that it is an underground oil tank.

7. OPEN MEETING TO PUBLIC FOR COMMUNICATION ITEMS ONLY  
(Subject to 5-minute 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 reviewed the items on the Consent Agenda and asked if any member of the Council or Public wished to remove or discuss any item.

ORDINANCES AND RESOLUTIONS

9.\* POSSIBLE INTRODUCTION OF ORDINANCE NO. 2008:1021, "ORDINANCE AMENDING CHAPTER 92, DRIVEWAYS" – PUBLIC HEARING – 11/24/08 @7:30 P.M. OR AS SOON THEREAFTER AS THE MATTER MAY BE HEARD (Requested by Borough Attorney 9/30/08) Adjourned from RM 10/6/08  
TO BE PREPARED BY BOROUGH ATTORNEY

10.\* INTRODUCTION OF ORDINANCE NO. 2008:1022, "AN ORDINANCE APPROPRIATING A SUM NOT TO EXCEED \$96,692.00 FROM OPEN SPACE, RECREATION, FARMLAND, AND HISTORIC PRESERVATION TRUST FUND FOR PARK AND HISTORIC PRESERVATION IMPROVEMENTS" – PUBLIC HEARING – 11/24/08 @7:30 P.M. OR AS SOON THEREAFTER AS THE MATTER MAY BE HEARD (Received from Acting Administrator 10/15/08)

11.\* BILL RESOLUTION – OCTOBER 31, 2008  
TO BE PREPARED BY TREASURER

12.\* RESOLUTION AUTHORIZING THE ADVERTISEMENT OF BIDS FOR COMPOSTING AND RELATED SERVICES (Received from Borough Attorney 10/9/08)

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- 13.\* RESOLUTION TO PURSUE A “FAIR AND OPEN” PROCESS IN AWARDING A CONTRACT FOR THE PROVISION OF CERTAIN PUBLIC HEALTH ADMINISTRATION SERVICES AND ENVIRONMENTAL HEALTH SERVICES FOR THE BOROUGH  
 (Received from Borough Attorney 10/14/08)
- 14.\* RESOLUTION APPOINTING PAUL DEMAREST TO THE POSITION OF ZONING BOARD OF ADJUSTMENT SECRETARY, AT THE ANNUAL RATE OF 14,700.00; PROBATIONARY PERIOD TO BEGIN 10/16/08 UNTIL 12/31/08; CONTINUATION IN POSITION CONTINGENT UPON SUCESSFUL COMPLETION OF THE PROBATIONARY PERIOD (Received from Acting Administrator 10/15/08)
- 17.\* POSSIBLE APPROVAL OF CLOSTER SUSTAINABLE INITIATIVE MASTER PLAN COMPONENT (Requested by Mayor 8/25/08/Adjourned from RM 9/10/08, 9/24/08, 10/6/08)  
RESOLUTION TO BE PREPARED, IF AND WHEN APPROVED

At this time, Mayor Heymann informed that the Council received this previously; however, she put a copy in front of them this evening just in case.

- 18.\* POSSIBLE RESOLUTION AWARDING/REJECTING BID RECEIVED BYACTING ADMINISTRATOR/TREASURER AT THE BID OPENING HELD 10/2/08 @ 11:30 A.M. FOR ONE (1) TRIPLE COMBINATION PUMPER OR EQUAL, RECEIVED FROM PIERCE MANUFACTURING INC., 200 RYAN STREET, SOUTH PLAINFIELD, NJ 07080, IN THE AMOUNT OF \$458,818.00 (Adjourned from RM 10/6/08 pending appearance by Fire Chief)
- 19.\* RESOLUTION RE REFUND OF 2008 REAL ESTATE TAX OVERPAYMENT IN THE AMOUNT OF \$6,635.21 TO FIRST AMERICAN R.E. TAX SERVICE, 1 FIRST AMERICAN WAY RE BLOCK 2102 LOT 37.04 (Received from Deputy Tax Collector 10/15/08)

MOTIONS

- 20.\* APPOINTMENTS NOT MADE AT THE REORGANIZATION MEETING HELD 1/02/08; Adjourned from Regular Meetings held 1/09/08, 1/23/08, 2/13/08, 2/27/08, 3/12/08, 3/26/08, 4/9/08, 4/23/08, 5/14/08, 5/28/08, 6/11/08, 6/25/08, 7/9/08, 7/23/08, 8/13/08, 8/27/08, 9/13/08, 9/24/08, 10/6/08

<u>OFFICE</u>	<u>INCUMBENT</u>	<u>APPOINTEE</u>	<u>TERM</u>	<u>EXPIRES</u>
HEALTH, BOARD OF Alternate No. 2	Phyllis Buonomo	_____	2 Year	12/31/09
IMPROVEMENT COMMISSION				
Member	Wilson Reimers	_____	2 Year	12/31/09
Alternate No. 1	Frank Rodriguez	_____	2 Year	12/31/09
Alternate No. 2	Bobbie-Bouton- Goldberg	_____	Unexp. 2 Year	12/31/09

- 23.\* MOTION APPOINTING THE FOLLOWING INDIVIDUALS TO SERVE AS MEMBER(S) OF THE HISTORIC PRESERVATION COMMISSION TO FULFILL REQUIREMENT MADE BY ADOPTION OF ORDINANCE NO. 2008:1004 ON 3/12/08  
 (Term to be determined by Borough Attorney in accordance with N.J.S.A. 55D-107) – Adjourned from RM 04/23/08, 5/14/08, 5/28/08, 6/11/08, 6/25/08, 7/9/08, 7/23/08, 8/13/08, 8/27/08, 9/13/08, 9/24/08, 10/6/08

<u>Appointee</u>	<u>Class</u>	<u>Term</u>	<u>Expiration</u>
a. _____			
b. _____			

At this time, Mayor Heymann referred to Item Nos. 18 and 19 and informed that there were no new appointments to be made.

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- 24.\* MOTION APPROVING THE FOLLOWING MINUTES:
- a. WORK SESSION NOTES OF MEETING HELD SEPTEMBER 24, 2008 (Distributed 10/9/08) NO ABSTENTIONS
  - b. REGULAR MEETING MINUTES OF OCTOBER 6, 2008 (Distributed 10/16/08 ABSTENTION: AMITAI
  - c. WORK SESSION NOTES OF MEETING HELD OCTOBER 6, 2008 (Distributed 10/16/08) NO ABSTENTIONS
- 21.\* *POSSIBLE* MOTION APPOINTING \_\_\_\_\_ TO SERVE AS MEMBER OF THE BOARD OF ETHICS FOR AN UNEXPIRED 5-YEAR TERM (HARZ (R) Public Member) TO 12/31/08 (9. M.L. 10/16/08)
- 22.\* MOTION GRANTING APPROVAL FOR THE RECREATION COMMISSION TO CONDUCT THE ANNUAL HALLOWEEN PARADE ON SUNDAY, 10/26/08, AT 1 P.M.; PARADE FTO FORM BEHIND THE BOROUGH HALL AND PROCEED THROUGH THE CENTER OF TOWN TO TENAKILL SCHOOL FOR THE JUDGING OF COSTUMES (5. M.L. 10/16/08)
- 23.\* GRANTING APPROVAL FOR BOROUGH CLERK TO SIGN STATE OF NEW JERSEY, OFFICE OF THE ATTORNEY GENERAL, DEPARTMENT OF LAW AND PUBLIC SAFETY, DIVISION OF ALCOHOLIC BEVERAGE CONTROL, APPLICATION FOR SPECIAL PERMIT FOR SOCIAL AFFAIR FOR CLOSTER PTO, 340 HOMANS AVENUE, CLOSTER, NJ 07624, TO CONDUCT WINE TASTING FUND RAISER AT THE ASSEMBLY EAST HILL, 597 PIERMONT ROAD, CLOSTER, NJ 07624, ON 11/14/08 FROM 7:00 P.M. TO 11:00 P.M. (Completed application received 10/17/08)
- 24.\* ACCEPTANCE OF THE FOLLOWING MONTHLY REPORTS:
- a. No Reports received at time of preparation of this Agenda

The following items were removed by the following individuals: Mr. Glidden and Dr. Barad asked that Item No. 16 be removed; Mr. Hennessey asked that Item No. 12 be removed; Mr. Kashwick asked that Item No. 10 be removed; Mr. Rogan asked that Item No. 9 be removed.

8b. VOTE ON CONSENT AGENDA ITEMS

Motion to approve the Consent Agenda minus Item Nos. 9, 10, 12, 16, 18, 19 and 21 was made by Councilman Glidden, seconded by Councilman Barad and declared carried by Mayor Heymann upon the affirmative vote of Councilpersons Glidden, Hennessey, Kashwick, Barad, Tutoli and Amitai.

29. REVIEW AND VOTE ON ITEMS REMOVED FROM CONSENT AGENDA

9. *POSSIBLE* INTRODUCTION OF ORDINANCE NO. 2008:1021, "ORDINANCE AMENDING CHAPTER 92, DRIVEWAYS" – PUBLIC HEARING – 11/24/08 @7:30 P.M. OR AS SOON THEREAFTER AS THE MATTER MAY BE HEARD (Requested by Borough Attorney 9/30/08) Adjourned from RM 10/6/08  
TO BE PREPARED BY BOROUGH ATTORNEY

Mr. Rogan explained that he is still waiting for additional information from the Construction Code Official and the Zoning Officer with their comments. Once he receives this, they will put it all together again for redistribution and consider these two important voices in this matter. He informed that it should be carried to the next meeting. In response to Mayor Heymann, Mr. Rogan informed that they had received it from Mr. Sinowitz and not from Mr. Sager; he also wanted Mr. DeNicola's input. He hoped they would have all of this by the next meeting.

At this time, Mr. DiStefano referred to Consent Agenda Item No. 11 and informed that this should be adjourned to the Regular Meeting of November 12, 2008.

At this time, Mr. Sager informed that he had all of the information, which he would fax first thing in the morning.

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REGULAR MEETING MINUTES – WEDNESDAY, OCTOBER 22, 2008 – 7:30 P.M.

10. INTRODUCTION OF ORDINANCE NO. 2008:1022, “AN ORDINANCE APPROPRIATING A SUM NOT TO EXCEED \$96,692.00 FROM OPEN SPACE, RECREATION, FARMLAND, AND HISTORIC PRESERVATION TRUST FUND FOR PARK AND HISTORIC PRESERVATION IMPROVEMENTS” – PUBLIC HEARING – 11/24/08 @7:30 P.M. OR AS SOON THEREAFTER AS THE MATTER MAY BE HEARD (Received from Acting Administrator 10/15/08)

Mr. Kashwick informed that the Finance Committee met a number of times and reviewed which items they were going to select. They were very careful as to the items they approved this year and kept it a lot lower than what was requested; they wished to bring it to their attention that this was a very lean allocation this year.

Motion to approve the Introduction of Ordinance No. 2008:1022 was made by Councilman Kashwick, seconded by Councilwoman Amitai and declared carried by Mayor Heymann upon the affirmative vote of Councilpersons Glidden, Hennessey, Kashwick, Barad, Tutoli and Amitai.

12. RESOLUTION AUTHORIZING THE ADVERTISEMENT OF BIDS FOR COMPOSTING AND RELATED SERVICES (Received from Borough Attorney 10/9/08)

Mr. Hennessey explained that the wording of this resolution almost implies that the Borough is going to expend monies to have somebody occupy the space. Mr. Rogan assured that it was for allocating monies to prepare the bid specs; the Borough is not paying them. This is just authorization to go out to bid; and then the applicants come back and say what they are willing to do in exchange for use of the property. In response to Mr. Hennessey, Mr. Rogan informed that the \$17,500.00 is the figure pertaining to the Fair and Open Process, which allows them to do it this way, as opposed to another way. Mr. Hennessey requested that Billy Dahle come and explain to them exactly what Ken’s Tree Care does. However, Mr. Rogan explained that this is not specifically for Ken’s Tree Care; it is to go out to bid to see what, including Ken’s Tree Care, if they so choose, other services are willing to do in exchange for that. Mr. Hennessey asked what they were going to advertise for; and Mr. Rogan informed that they have been provided with specifications from Billy Dahle.

Acting Superintendent of Public Works explained as follows: the Borough needs a licensed compost operator that will help with the DEP – the grinding of our brush – on a monthly basis – the grinding of our leaves; they put a list together of stuff the Borough may need in the future for an emergency, that this will be ready for us at any given time. Mr. Hennessey clarified that this is what the Borough wants from him and pointed out that this person wants a place of business from the Borough. Mayor Heymann explained that by going to an open bid like this, because the value is more than \$17,500.00, they may find a potential landscaper who will do more for them. Mr. Hennessey pointed out that they may be able to find someone who can pay the Borough some money. Mayor Heymann assured that all of these things will be taken into consideration. Mr. Rogan informed that this was the point of doing it this way – in a more formalized fashion so that it is out in the open. In response to Mr. Hennessey, Mr. Rogan explained that Mr. Dahle did define the scope of the work and he will get everyone a copy of same; if this is approved, then they will prepare the bid specs and it will be circulated.

Motion to approve Item No. 12 was made by Councilman Hennessey, seconded by Councilwoman Amitai and declared carried by Mayor Heymann upon the affirmative vote of Councilpersons Glidden, Hennessey, Kashwick, Barad, Tutoli and Amitai.

- ~~21.~~\* POSSIBLE RESOLUTION AWARDING/REJECTING BID RECEIVED BY ACTING ADMINISTRATOR/TREASURER AT THE BID OPENING HELD 10/2/08 @ 11:30 A.M. FOR ONE (1) TRIPLE COMBINATION PUMPER OR EQUAL, RECEIVED FROM PIERCE MANUFACTURING INC., 200 RYAN STREET, SOUTH PLAINFIELD, NJ 07080, IN THE AMOUNT OF \$458,818.00 (Adjourned from RM 10/6/08 pending appearance by Fire Chief)

Mr. Glidden reminded that they addressed this potential resolution at the last meeting and they felt that it would be more appropriate to hear from the Fire Chief about the fact that there was only one bid received. He asked for both the Fire Chief and Fire Official to come forward to speak about same. Mr. Glidden explained that the concern was that it was a lot of money and the process they went through, as there was only one bid received. In this day and age, as we read all about the State of New Jersey and other places, having one bid is a concern.

Fire Chief Pierro thanked the Governing Body for giving them the chance to address the issue; and explained that they did this as a Committee; however, Kevin was the Chairman of that

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Committee. Therefore, he asked that Kevin Whitney explain, as he could explain the whole process better than Mr. Pierro would be able to.

Fire Official, Kevin Whitney, explained as follows: basically, the Committee was assembled about 24 months ago; they started a search for replacement of this pumper that they built in 1987; it is due for replacement; they attended various trade shows, visited neighboring towns, gathered ideas; in the past 12 months, the Committee met on a pretty aggressive schedule, trying to develop a set of bid specs; they were able to come up with specs finalized this summer; they put out for public bid in late August/early September; pursuant to public bid laws, the Borough received two requests for copies of those bids; one was returned.

In response to Mr. Kashwick's inquiry, Mr. Whitney explained that the advertisement clearly stated that the Borough is soliciting bids for replacement of a fire pumper; no technical specifics were given in the advertisement. It was an open invitation for any manufacturer or any dealer or representative of a manufacturer to submit a bid. Mr. Glidden questioned if there was any negotiation to try to reduce the cost upon opening the bid. However, Mr. DiStefano informed that this would violate the Open Public Contracts Law. Mr. Rogan explained that they are in no position to do this at the bid opening, adding that the Council can either accept or reject the one bid. There is no obligation to accept it and that may be a form of negotiation, but they are in no position to start negotiating themselves.

Mrs. Amitai asked if it was mandatory to replace the pumper, such as state mandate. Mr. Whitney explained that it is generally accepted practice of 20 years to replace a pumper; going by NFPA standards. In response to Mayor Heymann, Mr. Whitney explained as follows: it is an organization that develops guidelines and standards for the fire service to operate under; it establishes regulations on turnout gear, fire apparatus, building codes, life safety codes; it is referenced throughout the fire service, as well as by State building codes; he agreed with Mrs. Amitai that it is recommended that they change the pumper every 20 years.

Mayor Heymann asked Mr. Whitney to explain the fact that those standards are being changed as of 1/1/09 and how this affects their pumper. Mr. Whitney explained as follows: part of the proposal that was provided by Pierce Manufacturing in their bid specification, they offered to allow a certain dollar amount for us to trade in the vehicle; they will take the vehicle from the Borough now; as of January 2009, NFPA will be adopting a new set of guidelines or design criteria for fire apparatus manufacturers; one of the concerns is any older truck that's existing on the market beyond January 2009 is just taking another step backwards as far as becoming more obsolete; the market price will deteriorate any further than what they've offered to provide now as a trade in value; then the truck is more obsolete in the market place.

Mr. Hennessey asked Mr. Whitney to explain the difference in purchasing a new truck and renovating, remodeling or upgrading the existing one. Mr. Whitney didn't think this was an option at this point. NFPA generally does not recommend this either. He reminded that the Borough took the liberty of another truck about six years ago – if they were to compare the truck they are replacing and the existing one, there is no comparison; technology has advanced. There are also a lot of safety issues that are addressed today with the newer vehicles. It is not really practical – it can be done, but it is not the best investment.

Chief Pierro explained as follows: one of the biggest changes in the pumpers from the current one compared to the new one is that if you actually went and looked at it, the engine is to the rear; so in the back you have two jump seats; two people sit on the driver's side and two on the passenger's side; with the new apparatus, the engine is to the front, where everyone has access to either get out the driver's side or the passenger's side; they've changed that due to the fact that in rollovers – those two people are stuck in that vehicle; if for some reason that vehicle is on a busy street, the safety of the firefighters getting out of that vehicle on a busy street, getting out on the passenger's side, instead of stepping out into traffic on the driver's side; there is a big safety difference with those two; refurbishing the old will not provide that safety option for that vehicle.

Dr. Barad voiced his understanding that the bid specs are a large document and questioned if these were the specs that they put together over the two years they are working. Mr. Whitney agreed, and explained that by conducting various field visits to different fire departments, looking at different manufacturers that have delivered vehicles in neighboring towns, and meeting with representatives from those same competing companies to Pierce at trade shows over the past two years; they try to take the best of what everyone has to offer. There is no one perfect company. Dr. Barad explained that he has never put together bid specs on a pumper, noting that this was a 92 page document; and he questioned if they worked with Pierce in making this up. Mr. Whitney informed that they had done so briefly, adding that Pierce provided them with a draft or a starting point, as they didn't have the expertise to start with a blank piece of paper. He informed that they were able to tweak and tune that according to what they wanted and what can serve this community best. Dr. Barad asked if one possible reason for them getting one response to the bid was because the bid described the Pierce machine. Mr. Whitney did not agree that this was a possibility, and reiterated that the advertisement was put out, which clearly stated that the Borough was soliciting bids for the replacement of a pumper; there was no technical

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language in that advertisement. In response to Dr. Barad, Mr. Whitney explained that two companies came in based on that advertisement; he doesn't have any control over this and neither does the Mayor and Council. They followed the law. Dr. Barad informed that he was trying to understand the process.

Mr. DiStefano informed that they only had two; and at the time of opening up the bid, they only had one. Mr. Glidden explained that the question was whether the bid specs that were put together were exclusionary. Mr. Whitney did not think the bid specs were exclusionary; there was nothing in there that was proprietary or limiting to one manufacturer. Dr. Barad asked for clarification that they have looked at the trucks and they feel that there are other manufacturers who could have submitted a bid that would have met the specs that they put together. Both Mr. Whitney and Chief Pierro agreed with this. Mr. Whitney informed that they would have no way of knowing that without coming to obtain the bid.

Mayor Heymann explained that the point is that the ad was totally autonomous as far as any specs are concerned. Dr. Barad voiced his understanding that the process is that they put an ad in and it states generally what they are interested in. Mr. Whitney explained that the ad states that the Borough is looking to replace a pumper, bid specs are available with the Borough Clerk and they must come in and pick up their copy. In response to Dr. Barad, Mr. Whitney reiterated that there were only two responses to the advertisement. In response to Mr. Kashwick and Mrs. Amitai, Mr. Whitney agreed that this new pumper will meet any State guidelines and it will last the Borough 20 years.

Jesse Rosenblum, 65 Knickerbocker Road, questioned how many possible suppliers there are for pumps; and Mr. Whitney informed that there are a handful of major players in the industry and there are a lot of smaller companies around the United States. Mr. Rosenblum asked if there were at least half of a dozen good ones; and Mr. Whitney agreed that he thought so. Mr. Rosenblum referred to the canvassing of neighboring Fire Departments and asked if they have the other brands also; and Mr. Whitney informed that they did. Mr. Rosenblum voiced his opinion that the problem is that only one person answers the bids that were sent out, because there are other manufacturers. He voiced his opinion that it doesn't make sense that this would happen. Mr. Whitney explained that he couldn't answer this. Mr. Rosenblum referred to what Mr. Whitney had said about the advertisement being plain and simple; and informed that he read the specs. He further noted that practically every item in the specs has a manufacturer's name. For example: Goodrich tires or the name of the battery; etc. He voiced his understanding that when they spec things like this, they are throwing off potential suppliers who may not work with the specific brands indicated.

Mr. DiStefano informed that they can specify by public bid or equivalent. Mr. Rosenblum questioned if this was in the specs; and Mr. DiStefano informed that he saw it in a few places in the specs and that it is okay as long as they indicate somewhere "or equivalent". Borough Attorney advised that they can substitute to prove it is of equal quality. Mr. Rosenblum explained that when you buy a new car or truck from a dealer, you don't ever pay the lump sum, but instead, you try to bargain. However, the two men representing the Fire Department pointed out that they cannot bargain with a public bid. Mr. Rogan advised that the Council can reject this bid, but not the Fire Department. Mr. Rosenblum voiced his concern that when there is only one bidder, they don't know what they are getting for their money. Mr. Whitney explained that the Borough owns another piece of apparatus manufactured by Pierce; they do have experience with it and they do know what they are getting in terms of quality, liability and safety. Mr. Rosenblum stated that there was an article in the paper regarding Pierce that mentioned about 20 fire departments that bought similar equipment. He asked if they had priced what they paid for that equipment and Mr. Whitney was not familiar with this. Mr. Rosenblum informed that Pierce gave the names of the people they had supplied with that equipment. Mr. Whitney informed that most trucks are unique and they are definitely custom built trucks. They are unique and specific to the municipality's requirements. Mr. Rosenblum explained that the idea is to get a parameter, an order of magnitude as to when they bought their equipment and what they paid for it, so they can get a general idea.

He also informed that at the present time, they have a financial situation, which some people call a global deflation. If the Council decided to buy it based on one bid, he would say that since the Borough has the money and Pierce would like the order, then Kevin Whitney should call them and say that they want \$30,000.00 off the cost. However, Mr. Rogan explained that they cannot do this and Mr. Rosenblum voiced his opinion that they should reject the bid. Mr. DiStefano pointed out that if they rejected the bid, they would have to go out to bid again, noting that the price of steel is going up. However, Mr. Rosenblum informed that the price of steel is going down, as everything is going down in cost. Mr. DiStefano disagreed, noting that physical steel to build these trucks is going up constantly.

Mayor Heymann assured that she would have the Borough Attorney review the notice again. She explained that the notice was totally generic and it was open to everyone, but only two

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people picked up the specifications. Mr. Rosenblum questioned this, adding that everyone wants business. Mayor Heymann informed that the fact is that nobody came to pick up the bids and Mr. Rosenblum suggested they advertise again with a bigger ad.

At this time, Mr. Rogan stated as follows: for the record, the advertisement does say, “triple combination pumper or equal”, which is what they talked about before, in other words, despite the brand, as long as it is comparable, anyone would satisfy it and could submit a bid; it wouldn't exclude anybody just because they may not deal with that particular manufacturer. Mr. Rosenblum voiced his opinion that to buy from one supplier is a blind choice. Mr. Hennessey asked if Mr. Whitney would know just by industry standards, within five percent of what another town would pay for a similar truck. Mr. Whitney agreed and explained that through conversations that are held with the neighboring towns, of whom they work closely with on mutual aid – Closter is part of a 13 town mutual aid network within the County – he believes it is a fair price within a couple of percent.

Mayor Heymann informed that when John said they were going to put a limit on this, they went back to the drawing board to cut some things out. Mr. Whitney pointed out that when they initially started the design of this truck, it was coming in close to \$500,000.00. They realized they needed to make some compromises. This is without compromising safety or making a poor choice as far as a short term savings and having a truck fall apart on them in ten years; as this is not in anyone's best interest either. They were able to work to shave off about \$50,000.00. Mr. Hennessey voiced his understanding that their number one priority as far as putting the specs together is safety of the firemen who will be using it. Mr. Whitney informed that safety is always there as a design criteria, but he assured that anytime the committee met, they have always taken into consideration that it is taxpayer dollars. However, he will never compromise firefighters' safety. They are always aware of the dollars involved and the impact.

Mrs. Amitai questioned what kind of changes will take effect as of January 2009 and whether or not it would be sensible for them to wait to see what the changes are. Mr. Whitney didn't think it was sensible, noting that he didn't have the documentation in hand; however, he has no reason to doubt it. He informed that Pierce has provided written notification to all of their dealers, effective early October, that there was going to be a price increase. Mr. Whitney further explained that NFPA changes are generally always safety oriented, so it is going to equate to more money. Mrs. Amitai questioned if they would come back in five years and accuse the Borough of not meeting the current standards. Mr. Whitney assured this wouldn't happen and informed that the manufacturers have to adhere to NFPA standards at the time of production, but the town is not required to maintain a vehicle; or anytime NFPA standards are changed, the town does not have to retrofit the truck.

Fred Pitofsky, 7 Pearle Road, questioned how many times they have used the pumper in the last 20 years. In response to Mayor Heymann, Mr. Pierro informed that there were three alarms today and three yesterday. Mr. Whitney informed that the department average is 350 calls per year. Depending on the type of call and how much man power they have at any given time, it is hard to say, as he did not have the statistics available at this time. However, he assured that the truck has participated in many of those typical 350 runs per year. Mr. Pitofsky asked if any of the neighboring towns had ordered a new pumper recently and Mr. Whitney informed that Norwood just recently took delivery of a truck.

Mr. Hennessey questioned if there was a time clock on the truck that indicates how long the engine has been running. Mr. Whitney informed that there was and Mr. Hennessey asked if he had the total number of hours for twenty years. Mr. Whitney did not have this information available at this time.

Joe Bianco, 7 MacArthur Avenue, voiced his opinion that the Council should look at the Fire Department from a cost benefit analysis perspective. There are three areas of concerns that make up our Fire Department. The first thing is the man power, which is all volunteer; it would cost them a fortune to have to pay these men. The second is the Fire House; the facilities and the buildings. It was his understanding that the firemen maintain the building. The third thing is the equipment that they have. Therefore, when you look at the whole picture of the Fire Department, the man power is free, the facilities are paid off and all they need to do is purchase a fire engine. He explained his understanding of specifications. It appears that these firemen did a performance specification, with their experience and their way of operation. They want a piece of equipment that will perform to their specific needs and wants. He voiced his opinion that they should all respect the specific needs and wants of these men. He voiced his understanding that they have another piece of equipment from Pierce and there is a compatibility factor that the two pieces of apparatus will be in combination. They want to have their equipment in sync with each other, which is why he believed they should support this. The firefighters have given so much to this town. The least the Governing Body could do is vote to give them this fire engine. Closter has a terrific Fire Department, Police Department and Ambulance Corps., who deserve no less.

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Mrs. Amitai voiced her understanding that no one was questioning the ethics and work of their men. They are extremely proud and grateful to them. Mr. Bianco reiterated that they are getting the manpower and the facilities at their volunteerism. They need the equipment. Mrs. Amitai referred to Pierce and the fact that they are offering so little to take the old truck, and she questioned if they could save it for parts instead.

Mr. Glidden was satisfied with the response they received this evening and assured that no one questioned what these men do for this Borough. They are not paid professionals, but they are volunteer professionals and he appreciates everything they do. He thinks they did their homework in terms of investigating this issue. He questioned them last night and he was initially concerned about the single bid, but he thinks they have explained this well. They have gone out into the other communities to see what they have. He didn't think they were buying something that they were paying too much for, because he thinks they are buying something that they absolutely need.

Motion to approve Item No. 19 was made by Councilman Glidden, seconded by Councilman Barad and declared carried by Mayor Heymann upon the affirmative vote of Councilpersons Glidden, Hennessey, Kashwick, Barad, Tutoli and Amitai.

Mr. Pierro and Mr. Whitney thanked the Mayor and Council.

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

- a. CONTINUED DISCUSSION RE PARKING SPACE FEE (Requested by Mayor 1/18/08) RM 9/10/08 – Mayor Heymann informed that this was being held up pending receipt of information from the Borough Assessor
- b. CLOSED SESSION REGARDING THE FOLLOWING MATTER: DISCUSSION PERTAINING TO PERSONNEL ORDINANCE AND MANUAL CHANGES (Requested by Borough Attorney 9/3/08; Adjourned from RM 9/10/08, RM 9/24/08, RM 10/6/08) – Mayor Heymann informed that they would postpone this, due to the time.

At this time, Mayor Heymann wished to go over information that she had provided to the Council. She explained as follows: the first page is the schedule of meetings for the adoption of the Master Plan, they will be adopting the Master plan and the Green Component to the Master Plan, which has to be done first, because it has to be adopted into the 2002 plan in order to be altered in any fashion in the 2008 plan; the second pages are the proposal from Hakim and this is only an original draft; it is subject to change at the public hearings that they are going to be having; it is a guideline for them to go by; that is pages two, three and four; then on pages five and six is the Sustainable Closter Initiative, which is a Green Element, which they did receive earlier on; however, some of them haven't necessarily seen it; it's three pages of proposals, which would be the Green Element to our Master Plan; in addition to that, they also received a separate letter, which explains the use of the field by the Vikings, as some of them questioned this; because this became public information and it was erroneous and she was trying to correct it, they also received the issue of the surpluses that are appropriated by the Borough from year to year; the chart they have is schedule eight that goes from 1998 to 2007; you will see that the surplus never went beyond \$1.8 million, which was eight years ago; that the drawing on the surplus was pretty even throughout all of those years; that in fact, the largest drawings were in the years 2005 and 2006 under a democratic administration; and that the balance available at the end of the year did not change more than \$400,000.0 between 1998 and 2007; if anyone would like to see this, it is here for anyone to look at; she thinks it refutes the questions they had and other people had in regard to the balance.

Mrs. Amitai questioned if they should post this on the website and Mayor Heymann informed that it was only for their information, as there was erroneous information distributed that she wished to correct. Dr. Barad asked what "balance available" meant and Mayor Heymann agreed that it is the amount available for next year; it is the carry-over surplus. Mayor Heymann informed that the State has been encouraging them to use as much as possible in order to keep the tax rate as low as possible.

Fred Pitofsky, 7 Pearle Road, referred to what the Mayor had said about more being taken out of the Budget during the democratic years and reminded that they had money coming in to them. Since they knew this money was coming into the Borough, they took more out, as it would have replenished it. Mayor Heymann voiced her opinion that they will be able to continue doing this.

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

Motion to adjourn the Regular Meeting at 9:40 p.m. was made by Councilman Glidden, seconded by Councilman Barad and declared carried by Mayor Heymann upon the affirmative vote of Councilpersons Glidden, Hennessey, Kashwick, Barad, Tutoli and Amitai.

Provided to the Mayor and Council  
on November 6, 2008 for approval  
at the Regular Meeting to be held  
November 12, 2008

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Loretta Castano, RMC  
Borough Clerk

Prepared by Cynthia L. Meyer,  
Deputy Borough Clerk, utilizing  
recording and Borough Clerk's  
notes

Approved at the Regular Meeting held 11/12/08  
Consent Agenda Item No. 27b.

CLOSTER MAYOR AND COUNCIL  
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MAYOR AND COUNCIL  
BOROUGH OF CLOSTER

WORK SESSION NOTES – OCTOBER 22, 2008 - 7:30 P.M.

Mayor Heymann convened the Work Session at 9:52 p.m.

1. ROLL CALL

The following persons were present:

Mayor Sophie Heymann

Councilpersons John C. Glidden, Jr., Thomas Hennessey, John Kashwick,  
David Barad, Cynthia L. Tutoli, Victoria Roti Amitai

Acting Administrator/Treasurer, John DiStefano

Borough Attorney, Edward T. Rogan

Borough Clerk, Loretta Castano

Borough Engineer, Nick DeNicola

Chief of Police, David Berrian

Fire Official, Kevin Whitney

Acting Supt. of Public Works, William Dahle

2. PROVISIONS OF OPEN PUBLIC MEETINGS ACT

3. COMMITTEE REPORTS

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

1) STATUS REPORT RE CAPITAL BUDGET/CAPITAL PLAN  
(RM 7/9/08) – Mr. Kashwick reported that they have reached the open space allocations tonight. Tax bills have gone out and Maria Passafaro is present to answer any questions regarding tax bills. Mayor Heymann thanked Maria for being present on her own time. Jesse Rosenblum voiced his opinion that he does not like the pie chart. He asked if the chart is getting bigger or smaller.

2) STATUS REPORT RE TRANSPORTATION MEETING HELD IN  
ENGLEWOOD 6/30/08 – No report.

3) STATUS REPORT RE CLOSTER WEBSITE – Mr. Kashwick met with Kevin Whitney and John DiStefano last night to go over additional changes. They are going to start a registration process to get updates as a precursor to starting a newsletter since they do not have the resources to create a regular newsletter. They will instead have any kind of updates posted to the website that they feel people should know about the registration process to alert people of that.

4) STATUS REPORT RE IN-KIND MATCH OF \$25,000 FOR COMMUNITY  
FORESTRY GRANT (Work to be done by DPW) RM 6/27/07 – No report.

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WORK SESSION NOTES – WEDNESDAY, OCTOBER 22, 2008 – 7:30 P.M.

3. COMMITTEE REPORTS (Continued)

A. FINANCE AND TECHNOLOGY - KASHWICK (GLIDDEN/TUTOLI) (Continued)

5) REPORT – Mr. Kashwick reported as follows:

- a. Environmental Commission – The Harvest Festival that took place last Saturday was a great success. He congratulated the Environmental Commission for planning that. The Commission also met last night regarding the finishing touches on the Cross Closter Trail; many of the trailblazers are already installed and are finalizing the artwork on the maps and display signs for the entrances of the trail. Much of the success of that trail goes to the Commission and the DPW.
- b. Historic Preservation - Mr. Kashwick reported that the Historic Cemetery Tour went very well this past Saturday as well. Tim Adriance spoke for several hours about the history of the cemetery and the people buried there. A number of people were entranced by his presentation. It was a great afternoon in the area as both events worked well together. There is a presentation on November 9<sup>th</sup> at the library that the Historic Preservation Committee is doing for the West Street and Harrington Avenue historic district.
- c. Shade Tree - Mr. Kashwick announced the annual meeting of the Shade Tree Federation will be taking place this Saturday. He will be attending that along with Ray Cywinski to represent the Borough so they can obtain their continuing education unit credits for the current year to remain accredited.

Ms. Tutoli had a question about the website explaining that she has noticed that they don't have something that captures the hits made and didn't know if it was built to put that on there. Mr. Kashwick advised that he has asked Kevin to not turn it off but to make it a private thing and report back as to what pages are being used so they know what pages to enhance and what information is being used.

Mayor Heymann added that regarding the Borough newsletter, for which they cannot afford a printed version, but are going to try to do, is to improve on the Borough calendar and make it a single mailing rather than having another mailing from the DPW and another from recycling. She explained they intend to include all that on the Borough calendar and have that start on January 1, 2009 with all of their help so that they can coordinate with the DPW calendar. She added that we will have one calendar in one place covering all the important information of the Borough and cross reference it with the website.

Mr. Kashwick asked to make a suggestion that they use the non-glossy paper that's from recycled fibers. Mayor Heymann noted that it was a good recommendation and suggested he speak to Leslie Weatherly about it.

Ms. Amitai then informed Mr. Kashwick that they will also be putting out a welcome packet on the website. Mr. Kashwick was not aware of that but noted it was fine. It will go to the residents which will use less paper because people will access it online; and for the few who want paper, they will be able to get it in the Borough office.

Mayor Heymann added that she prepares a letter to all new residents to the town to refer to the website. She needed to know how to access new resident information and asked Maria Passafaro to forward those names to her. Ms. Amitai recommended the Construction Office and John DiStefano suggested the Assessor's office as well.

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3. COMMITTEE REPORTS (Continued)

B. PUBLIC SAFETY - GLIDDEN (HENNESSEY/TUTOLI)

1) REPORT – Mr. Glidden asked the Chief of Police to report:

Chief Berrian reported that the renovations to the police department are going well. The evidence room and record storage room in the basement are finished. The interview room and Chief's office are finished. Tom Connolly will come back to finish some items in the police area and some other areas in Borough Hall. Today the Police Department and two public schools had their annual lockdown drills. It's an important training exercise where both schools, police departments, and surrounding towns assist us and we assist them when they have drills to learn each other's schools and operations and be familiar with their facilities. He went on to say that he spoke to the governing body in regards to CALEA (Certified Accreditation for Law Enforcement Agencies).

He explained that the Mayor and several officers and he attended a presentation in September. It is something he strongly believes is worth pursuing as does the officers who attended. The cost can be offset, although he doesn't have an exact amount of the cost, but most of it can be appropriated through confiscated funds. He doesn't have an exact dollar of the confiscated funds account because they are waiting for a few pieces of furniture to be delivered for the detective bureau and interview room made through the confiscated funds account. He will get the number next week; and with the Council's permission he would like to send an overview of what CALEA is, the approximate cost, and a sample bid spec., and benefits for it. Some benefits are that the Borough's insurance premiums will go down about \$3,200 annually and for the department itself operationally everything will be in black and white covering all critical areas of law enforcement in the state of New Jersey.

When speaking with other Chiefs throughout the area many departments are in need of this service. Doing it on our own would be impossible, as it would mean one person dedicated only to this and that person is no longer usable for anything else. Mayor Heymann added that there would be a manual for every single operation that the police is involved in. It would standardize and increase our standard level. The reason that it would take so long if we did it eternally it would mean someone would have to go from person to person. As it is, it will take some staff time because the manuals will be worded with help from the staff. So it will take some internal time as well. Berrian continued by explaining that he is looking for a company to come in and guide us through it. The company that provided the seminar would be hands-on within the department and do it for us if they meet the bid specs. and we choose them. He will have a packet for the Council next week.

In response to Fred Pitofsky's request, Chief Berrian advised that he does have an e-mail from Kay and the JIF will fund some of the money for the cost of the certification process. Mr. Hennessey asked whether the certification involves classes or anything the police have to attend. The Chief advised that it does not but has a strict guideline of roughly 120 critical issues in law enforcement that will be spelled out as far as every other current standard operation procedure or general order. He explained that the scenario in most Police Departments is that they have clip boards that have sign-ups and they know they have them somewhere, try to find it to see if someone signed off or not. This will come with a computer software internet program. Everything would be on the computer; every member of the department would have a password

CLOSTER MAYOR AND COUNCIL

WORK SESSION NOTES – WEDNESDAY, OCTOBER 22, 2008 – 7:30 P.M.

3. COMMITTEE REPORTS (Continued)

B. PUBLIC SAFETY - GLIDDEN (HENNESSEY/TUTOLI) (Continued)

and an I.D., so when an order is put out, everyone is required to go on the site and review the order and by reading it, it acknowledges that they have read it. Training can be done through this also. Right now training is done twice a year; and with overtime for that because it is mandated that we have this, it can now be done on the web based training program so it will save overtime. The benefits are exceedingly well for a police agency and will bring us into the 21<sup>st</sup> century.

C. PUBLIC WORKS - HENNESSEY (AMITAI/GLIDDEN)

1) REPORT – Mr. Hennessey reported as follows: They had a Public Works Committee meeting at the DPW. Billy Dahle brought everyone up to speed on some things. One is that all 5 leaf machines are out and working. He also discussed possibly inviting the public into the DPW yard to recycle cardboard and scrap metal. Mr. Hennessey asked if we needed an ordinance for that. Mayor Heymann advised that they would need to change the ordinance that prohibits that and make it possible. They will take it up with the Ordinance Committee. The Ambulance Corp. had a meeting last night exploring the option of putting a pre-engineered building on the back of the Ambulance Corp. They are using their own funds; and no Borough funds will be used. He has asked Nick DeNicola to do a review of the site plan to make sure its feasible to put a building back there before they hire an engineer and put something on paper.

Mr. Hennessey wanted to know what else they need to do. Mayor Heymann advised that it is a building in Closter and they need to do what everyone else has to do. I understand that they can do it with their own funds so its not a matter of going to the Borough to get the funds its just like a private developer who is building and needs the appropriate permission. The only thing we would do is waive any permit fees. Mr. Hennessey asked if there would be a zoning issue. Ms. Amitai asked what they would be using the building for. John DiStefano questioned whether the Borough owns the property. Mayor Heymann confirmed that the Borough owns the property. Mr. Hennessey replied storage of equipment. Mr. Hennessey explained that they need to store the inflatable boat that they have. Mr. Hennessey asked who they should go through because they already talked to Lenny and they are still all confused. Mayor Heymann advised to have Ambulance Corps Captain, Jean Marie Varni, call her and she will go through the paces with her. Ms. Amitai asked if they would need a mini site plan before the Planning Board or something like that. Mayor Heymann advised that it's just like changing Borough Hall where you bring the plans to the construction official.

D. ORDINANCES - BARAD (KASHWICK/AMITAI)

1) STATUS REPORT RE ORDINANCE COMMITTEE MEETINGS – Dr. Barad explained he is waiting for an e-mail from JoAnn Riccardi regarding preparations for the next Committee meeting. Mayor Heyman advised that she has not received anything as yet. Therefore, he informed that it won't be for another week or two.

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3. COMMITTEE REPORTS (Continued)

D. ORDINANCES - BARAD (KASHWICK/AMITAI) (Continued)

2) STATUS REPORT RE DISCUSSION WITH CABLEVISION FOR RENEWAL OF ITS MUNICIPAL CONSENT – PH held 9/10/08 – Dr. Barad explained as follows: JoAnn Riccardi is working on the Cablevision Ordinance. Borough Attorney advised they have to have some specifics before completing it. Dr. Barad continued by explaining that the issue that is not yet resolved is whether we want to either go for the long or short contract. He is in favor, as is one member of the Cablevision Committee, of the longer contract. He added that Steve Isaacson goes back and forth between long and short depending on the day. He thinks it is simpler to go forward because in the end Cablevision will do what it wants to do, but we get more up front with a long contract. He recommends to the Council that we go for the 15-year contract.

Mayor Heymann asked if anyone has any comments about that. Ms. Amitai asked him to spell out what a long contract means. Mr. Hennessey said that for the 15-year contract cablevision, all we have to negotiate with them is the length of the contract so they will give us more back with a long contract than a short. Standard would have been 10 years, short would have been 5 and 15 years would have been long. 10:16:14 Ms. Amitai said maybe a short contract. Mr. Hennessey said we are not giving them anything but to just be here. Mayor Heymann explained to Ms. Amitai the reason why she thinks a long contract is better is because in the long run everything we do will be usurped by state and national regulation anyway, so getting anything from them is a bird in the hand because in the future we might get nothing they may no longer have no negotiate with us. Dr. Barad explained that in five years they may go to a state-wide contract whether we give them a 15 year contract or a 5 year contract. Ms. Amitai said we might have another option for a different company. Dr. Barad explained there are a lot of companies; it's a non-competing contract we can negotiate with anyone who wants to come here. Up front they will give us with the 15-year contract a \$18,000 grant which really means \$4,000 upfront and a \$1,000 a year. With the 10-year contract they will only give us an \$8,000 grant with \$1,700 up front; so we get less than half as much upfront. It's really upfront money and the other perks we get within the first year or two when we'll certainly have the contract that make the difference.

Mayor Heymann also explained they should know that Cablevision is charged real estate tax for their properties in Closter, but Verizon is not, which is very unfair competition. Verizon has approximately \$4 million dollars worth of property within Closter which they are not taxed; and one of the things she would like to do is to encourage the League of Municipalities to push for Verizon to pay taxes like the other communications companies have to do. Verizon has a buy on that which is not fair besides the fact that it could bring a lot of money to the Borough and that we should think about that. Dr. Barad explained that part of the draft ordinance that they provided specifies that if there is unfair competition, then they can break the contract or unilaterally change the contract. Mayor Heymann asked if they know that they have to pay tax and Verizon doesn't. Ms. Amitai voiced her opinion that that in itself is unfair. Dr. Barad agreed.. Mayor Heymann advised that it is the State and it needs to be legislated by the State. Borough Attorney questioned in addition to the \$8,00 grant, what other perks do they supply.

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3. COMMITTEE REPORTS (Continued)

D. ORDINANCES - BARAD (KASHWICK/AMITAI) (Continued)

Mayor Heymann advised him to refer to the letter. She recommended that one of the things she wished Dr. Barad could do was for them to provide more outlets to Borough Hall because they are providing them to the school and the library and the Fire Department. Dr. Barad assured her that in this contract they will. Mayor Heymann explained that according to this, they are only providing for the Fire Department not for this building. Dr. Barad informed it does provide for Borough Hall. Mayor Heymann said they are providing the equivalent or equipment for Borough Hall, not access. Dr. Barad emphasized they would provide access. Mayor Heymann said it does not say that. Dr. Barad reiterated that it does; but if it doesn't, he'll clarify it.

- 3) REPORT RE PREPARATION BY BOROUGH ATTORNEY OF AMENDMENT OF BOROUGH RECYCLING ORDINANCES TO INCLUDE ADDITIONAL MATERIALS AS DESIGNATED RECYCLABLES (PER BERGEN COUNTY DISTRICT SOLID WASTE MANAGEMENT PLAN AMENDMENT (3. M.L. 10/2/08) – Discussed RM 10/6/08; DEADLINE: On or before 3/31/09 - No report.
- 4) REPORT – Nothing further to report.

E. HUMAN RESOURCES - TUTOLI (KASHWICK(/BARAD)

- 1) STATUS REPORT RE PERSONNEL COMMITTEE MEETINGS
- 2) REPORT – Ms. Tutoli reported as follows: The Committee's priority is to finalize the Personnel Manual so they can get that done by mid-December.

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

- 1) REPORT – Mrs. Amitai advised she had no report at this time.

4. OLD BUSINESS

No one wished to be heard.

5. NEW BUSINESS

- a. KIDDIE SOCCER (Requested by Mayor 7/3/08) – Mayor Heymann explained
- b. DISCUSSION OF POSSIBLE POLICY RE USE OF BOROUGH PARKS  
(Requested by Mayor 7/18/08/Discussed (WS 7/23/08) – Mayor Heymann also referred to this item and explained

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

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7. OPEN MEETING TO THE PUBLIC

Mayor Heymann opened the meeting to the public.

Jesse Rosenblum, 65 Knickerbocker Road, asked Chief Berrian how much the program is going to cost. Chief Berrian said the company he looked at could be around \$35,000 dollars. Mr. Rosenblum asked if he knows of any nearby Police Department that have used it. Chief Berrian advised that several in Bergen County are considering it, but they are a brand-new company and are unique in the fact that they will come into the Borough and be hands-on. Jesse asked if there are other companies that have done this work Chief Berrian advised yes there are other companies. Mr. Rosenblum asked if we know what other towns those companies have worked for. Chief Berrian said no. Mr. Rosenblum proposed working with another town that has used one of the other company's plans and asking them to share their report with us and then Closter just changes it around to fit our needs. He added that we could possibly give the other police department money; and that will then save us money. Chief Berrian explained that what other companies give is almost like a fill-in, but doing that is easier said than done because every town's issues are slightly different. The company he proposes sends in a team of police officers who are certified and trained in this. Mr. Rosenblum continued that we could still copy another town's report; we could get a lot of good insight because we would be modifying somebody else's; so it would be good for the thought process. Chief Berrian asked him what makes him think theirs would be better? Mr. Rosenblum explained we could update if we want to but there is a big difference between getting absorbed in someone else's report and modifying it and to just having a bunch of people come in, etc. Chief Berrian explained further that one of the critical issues is this is not a new concept but it is new in the fact that it becomes the more likeable thing to do.

At this time, Mayor Heymann called five minutes. Mayor Heymann and Chief Berrian suggested he stop in the Chief's office. Mr. Rosenblum said it was just an ideal.

Fred Pitofsky said Mr. Rosenblum's suggestions are good but he explained that the Chief and he spoke and need to contact the Joint Insurance Company to see who the authorized people are to do this and how we can save money. Mayor Heymann advised Mr. Rosenblum and Mr. Pitofsky that she has the materials in her office and they are more than welcome to take a look.

Fred Pitofsky, 7 Pearle Road, informed the Mayor and Council and DPW representative that the DPW truck had paint in the truck and dumped white paint on the road in front of his house and the neighbor's house; and they told him he should spray the road with a little black to cover the paint up. He said he thinks the DPW should be doing that. Mr. Hennessey informed he would ask them.

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Ms. Tutoli announced that on November 8<sup>th</sup> the Marine Corp. Detachment is having their annual dinner installation at the Assembly East Hill in Closter and she would like to have a Proclamation declaring November 8, 2008 as Marine Corp Appreciation Day in Closter. Everyone agreed it was a great idea. Chief Berrian informed he would not be able to be there. Mayor Heymann suggested that she write it up and we would so proclaim at the next Regular meeting. It was brought to her attention that it's less than two weeks; she said she knew but we could do it after the fact. As suggested by Mr. Glidden, Ms. Tutoli will present them with the proclamation like the one they did for Jeff Feifer.

Mr. Hennessey asked if a resolution needed to be put in place this year for permission to place the crèche and menorah in front of Borough Hall. Borough Attorney advised that the groups must apply to the Mayor and Council for permission to do so.

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

Motion to adjourn the Work Session at 10:21 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 November 6, 2008 for approval at  
the Regular Meeting to be held  
November 12, 2008

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Loretta Castano, RMC  
Borough Clerk

Prepared by Jennifer Moretti  
utilizing recording and  
Borough Clerk's notes

Approved at the Regular Meeting held 11/12/08  
Consent Agenda Item No. 27a.