

MAYOR AND COUNCIL
BOROUGH OF CLOSTER

REGULAR MEETING MINUTES – SEPTEMBER 24, 2008 - 7:30 P.M.

The Mayor and Council of the Borough of Closter held a Regular Meeting at Borough Hall on Wednesday, September 24, 2008. Mayor Heymann called the meeting to order at 7:40 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, Cynthia L. Tutoli, Victoria Roti Amitai

Borough Attorney, Edward T. Rogan

Borough Clerk, Loretta Castano

Deputy Borough Clerk, Cynthia Meyer

Borough Engineer, Nick DeNicola

The following persons were absent:

Acting Administrator/Treasurer, John DiStefano

Chief of Police, David Berrian

Borough Clerk also recognized Joe Bianco, member of the Zoning Board of Adjustment and former Mayor of Closter.

At this time, Mayor Heymann pointed out that the Acting Borough Administrator, John DiStefano, was currently on vacation.

4. PUBLIC HEARING AND ADOPTION OF ORDINANCE NO. 2008:1018, "AN ORDINANCE AMENDING AND SUPPLEMENTING THE CODE OF THE BOROUGH OF CLOSTER SPECIFICALLY, ADDING CHAPTER 93, CONSTRUCTION AND REPAIR OF SIDEWALKS AND CURBS: PERMIT REQUIRED"

This Ordinance was introduced at the Regular Meeting held 8/27/08, was published in the Press Journal in its issue of 9/4/08, as stated in the printer's affidavit of publication. Reprint of this Ordinance has been posted on the municipal bulletin board in accordance with statutory requirements and copies have been made available to the general public.

Mayor Heymann declared a public hearing and asked if anyone wished to be heard either for or against this Ordinance. No one wishing to be heard, Mayor Heymann closed the public hearing and asked for a motion.

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Motion to adopt Ordinance No. 2008:1018 was made by Councilman Glidden, seconded by Councilman Kashwick and declared carried by Mayor Heymann upon the affirmative vote of Councilpersons Glidden, Hennessey, Kashwick, Barad, Tutoli and Amitai.

5. MAYORAL APPOINTMENT OF Tiberio “Bing” G. Fabricante TO SERVE AS PLANNING BOARD ALTERNATE NO. 2 FOR AN UNEXPIRED 2-YEAR TERM (KIM) TO 12/31/2009 (8. M.L. 9/11/08)

Mayor Heymann announced that Mr. Fabricante could not be in attendance this evening, as he was out of the country, but assured that his resume was provided to everyone; and she offered to answer any questions.

6. 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.

Dr. Beth Ravit, 416 Piermont Road, referred to the Flamm property at the corner of Ruckman and Homans Avenue, reminding that Closter was awarded a \$500,000 Grant from the County approximately two years ago. She asked if they could update everyone with the status; if they are going to purchase the property and when. Mayor Heymann explained that the Council voted to contract for the property about seven months ago and they took the proper measures to finalize the price. They are negotiating with the seller, who has what she termed as “multi-tentacles”; a number of people have to be consulted because it’s part of an estate. When that came through, they are mandated to perform due diligence as far as the status of the property is concerned. They hired Langan Associates to do the test borings, who came back with a report that they didn’t find anything, but they strongly recommended further investigation. That is the point at which they are right now. According to Langan, that investigation could possibly be supported by a separate grant; they are going to let the Borough know; and it could take at least a few weeks.

Mayor Heymann explained that there is no question that the property will be acquired by Closter, barring tremendous toxic problems in the property, which no one anticipates. No one has found anything at this point. The property hasn’t been used since 1923; it is just taking a little bit longer than they anticipated. There is no question about it; and she has suggested to Eric Mattes of the Closter Improvement Commission, who is a certified licensed landscape architect, to consider what can be done with the front of the property that borders Homans Avenue and Ruckman Road. They would most definitely leave the rest of the property untouched.

Dr. Ravit voiced her understanding that they have to wait for another grant to have Langan do the work. However, Mayor Heymann informed that Langan will investigate whether the grant will be immediate. This is a different kind of a grant. It is a DEP grant for the investigation of the subsoil. According to Langan, it should take no more than 2-3 weeks to determine whether that is coming through or not. In response to Dr. Ravit, Mayor Heymann informed that the actual borings take one day and it takes about a week and a half to get the results back.

Dr. Ravit then explained as follows: she saw in an e-mail this morning that the Mayor thought that this would cost the Borough a lot more than 10% of the purchase price; so she went back to the original presentation that Erik Lenander, John Kashwick, Richard Ryan and she gave to Bergen County; the way the finances broke down as they originally proposed this, was the Borough commitment was 10% of the purchase price, which is what the Mayor and Council voted for; and they know Green Acres is giving them \$500,000; and the balance of the funding, as this was originally proposed, was going to come from our DEP/Green Acres account; and at that point in time, Erik said there was \$800,000 in that account that could be used as a grant and

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there was \$500,000 in that account that could be a low interest loan; and from those numbers, they had to subtract \$265,000 to pay for Blanch Woods; so she was under the impression, when they made this application, that the monies that would come from the Borough Open Space Fund, would be no more than 10% of the purchase; so she was surprised to see the e-mail she saw this morning.

Mayor Heymann explained that the \$265,000 for Blanch Woods, which the Borough spent of its own funds, waiting for the DEP to come through with them; they have been fighting for that money and it has not come through. She referred to the \$800,000 that Dr. Ravit thinks was in that fund and informed that none of them are secure with it, because the Borough is out for \$265,000 that was clearly promised and they haven't gotten it two years later. Also, the costs, such as engineering and bid providing, are never included in grants of this sort; and that's where the extra money comes in.

Joe Bianco, 7 MacArthur Avenue, expressed his thoughts about the Planning and Zoning Office from two perspectives; one as a volunteer and one as a professional. He recommended that they hire someone for the position full-time, adding that there are overlaps between Planning and Zoning. In some cases, they have encountered applications being transferred from one board to another. He has been helping out on a volunteer-basis with the work and he will continue to do so; he will also continue to provide advice. He reiterated that they should consider a full-time professional person who can do this job.

Leonard Asch, 201 High Street, referred to Ordinance No. 2008:1020, which was published in the Press Journal issue of 9/18/08, noting that the Ordinance deals with Municipal housing and rents. He questioned if he would be subject to the Ordinance as an individual who wanted to rent his house out, due to relocation. Mayor Heymann explained that this ordinance was in reference to COAH and nothing else. He referred to Section 3; Item 6c and read it aloud. He also referred to Section 3; Item C, which refers to exclusive of Item 6, which he doesn't find listed. In response to Mayor Heymann, Mr. Asch informed that the public hearing for this ordinance was scheduled for October 6, 2008 and Mayor Heymann explained that it is appropriate to address the matter when it comes up. Mr. Asch assured he would return with his inquiries on the public hearing date. Mayor Heymann informed that this ordinance is what she termed as a "pro-forma" ordinance that is mandated by the State; it spells out the tasks of a potential COAH manager. That's all it does; it doesn't mandate any activity on the Borough's part. Mr. Asch asked that the Borough Attorney review the sections he referred to; and Mr. Rogan agreed to do so. Mr. Asch reminded that he had asked about the accounting of the Open Space fund previously. He asked if it has been worked on and Mayor Heymann explained that it has; however, she explained that the Acting Administrator, John DiStefano, was not in attendance this evening. She further advised that he wait for Mr. DiStefano to return.

Jesse Rosenblum, 65 Knickerbocker Road, referred to an article that appeared in the Record and in a Magazine, dealing with retailing. He explained as follows: the Englewood article talks about high rents and a lack of parking in Englewood; the article on the reverse side talks about store vacancies; when you have economic conditions, you're going to have more vacancies; there was some discussion at the table about the Borough spending money to look for possible tenants; this is something that should be left to real estate brokers and retailers that know our zip code and Alpine's zip code; the Borough is working on an increase fee for properties that have parking shortfall; you know that land assessments in the business district run at about \$40-\$50 per square foot; he recommended that whenever there is a change in use and the applicant goes to the Zoning Officer, that he should ask for a copy of the lease, that way, they will get some background material and an understanding of what is happening to rents.

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Mayor Heymann thanked him and assured she will follow through. She also explained that there was an article in today's Record and suggested that Mr. Rosenblum read same. She further noted that the article puts a dollar sign on garage spaces very clearly. Mr. Rosenblum explained that if you don't collect enough money for the lack of parking spaces, then someone will have to pay for a parking garage down the road. Mr. Glidden voiced his opinion that the Englewood issue is an interesting one to take a look at, noting that they seemed to have done a good thing with the establishment of a redevelopment area four years ago. However, there are a lot of people who believe that Englewood has bitten off more than it can chew and now it's coming back to haunt them. He thinks Closter can take a lesson of what not to do on the grand scale of things.

Steve Isaacson, 97 Columbus Avenue, announced that his daughter will be coming home with her sorority sisters to do canning for P.S.U. to raise money for children who have pediatric cancer. They raised over \$1,000 in 24 hours last year and he encouraged everyone to give money for this.

Mr. Isaacson referred to the private organization that wanted to rent Closter's parks for a day camp a while back and reminded that the governing body was going to be consulting the Green Acres program to see if this was legitimate. He referred to an article in the paper about the Jewish Center and explained as follows: the Jewish Center was renting out their gym for basketball leagues and the Zoning Board of that town overrode it and said you cannot do that, because you're conducting a private enterprise in a residential zone; he thinks there is a lot of this in Closter; also in this article, about March Bank Historic Site at Center Ferrara investigation, there was one line in particular, "Green Acres rules severely restrict private uses of preserved parcels. He suggested that they speak to Green Acres if they haven't done so already, before anybody else comes before them to privately rent Closter's parks. Mayor Heymann agreed with him and informed that they asked the Recreation Commission to investigate all of this again. All of those issues are tabled. Mr. Isaacson suggested that the Mayor and Council look into it themselves, as this is not a Recreation matter, but it is a Borough matter. Mayor Heymann explained that there are various facets and assured that they will investigate all of them.

Mr. Isaacson explained that there would be a letter in the paper from him to come soon. He further explained that most parents of high school students received a letter from Ray Jacobus, the Business Administrator of Northern Valley Demarest High School. He informed that Mr. Jacobus is the former Business Administrator of Fair Lawn; and during his time there, he hired a private investigator and kicked 47 kids out of the school for being illegally enrolled and another approximated 150 kids withdrew from that school system because they were questionable. Up until now, it is up to Jan Furman to decide whether or not seniors who moved out of the district would have to pay tuition. So a lot of seniors who had moved out of the district were still going to Northern Valley and getting a free ride. Now, they decided that if they turn themselves in or if they get discovered by the same investigator, they will have to pay only 75% of the tuition. His daughter goes to P.S.U., which is an out of State college and he has to pay a \$10,000 premium for her to go to a school in Pennsylvania. He questioned why someone who moved out of the district and doesn't pay property taxes, get a 25% discount in their tuition to attend Northern Valley. Mayor Heymann explained that this is a question for the school and the Borough has nothing to do with it. She recommended that he study the State Statutes on the issue. Mr. Isaacson pointed out that it may be the School District, but it is still everyone's taxes. He also stated that they are charging the gifted and talented students to either pay an \$84 fee to take an A.P. test or fail it; they can take the money that they are collecting from the other students and pay for the test. Mayor Heymann reiterated that this is a school issue.

Mr. Isaacson was very happy to hear that the Eagle Scouts cleaned up the cemetery, but he

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questioned who owned the cemetery. Mayor Heymann informed that the Auryansen family owned it; and Mr. Isaacson explained that it had come to his attention that there were several trees cut down from that property. Mayor Heymann voiced her understanding that they were illegally cut down by a neighbor and assured they were following up on the issue. She clarified that she had investigated the issue and informed that there was no permit issued. Mr. Isaacson voiced his understanding that the trees were cut down because the neighbor was installing a pool and didn't want to get leaves in it. Mayor Heymann informed that this was the rumor, but assured that she is getting it checked out. In response to Mr. Isaacson, Mayor Heymann informed that the neighbor has done something illegal and they will get fined for this; the property owner did not cut down the trees.

Richard Ryan, 212 Knickerbocker Road, explained he came to follow up on the dedication of the cross Closter Trail as a citizen of Closter. He reminded that he had made a recommendation previously and questioned if the dedication could be considered to be in honor of all Vietnam vets. Veterans Day is coming up and he asked that they take this into consideration before anything official comes of it. Mayor Heymann assured that they could entertain the idea. He asked how he will know that they have decided and when; and Mayor Heymann explained that they will report back to him. Mr. Ryan offered to present this idea to the VFW to get a formal request with names. However, Mayor Heymann informed that the American Legion is researching names of disabled veterans.

Steve Isaacson, 97 Columbus Avenue, member of the Broadband Committee, explained that the Committee met with Cablevision yesterday, adding that it was a productive meeting. He also informed that Closter can have its own dedicated Cable channel; he informed that they should go to Ridgewood's website to check it out; they broadcast it on television, but they also have it streaming on their website. He further explained that they could have whatever they want on their own channel and they could even televise meetings. Mayor Heymann pointed out that Tenafly High School has a wonderful studio and the students do all of this. Mr. Isaacson informed that when you have to pay stipends or get students involved, meetings go late and students can't stay. He explained that they discussed getting some fixed position cameras and a robotic camera so they can focus it on individuals.

Dr. Barad assured he would report more about this later in the evening. Mr. Isaacson informed that Verizon is also supposed to be giving Closter its own dedicated channel, which they never offered when they were initially in negotiations with them. So then they could have two channels; one for Verizon customers and one for Cablevision customers. Then they could just split the fee so everyone is covered. Dr. Barad explained that the channel would be good to announce things like school closings on the T.V or Website. Mr. Isaacson pointed out that it would drive more people to the website. However, it would be a 15-year commitment, which is not too bad a deal, because they don't have any control over it anyway. The only bad thing was the money they would give Closter for a technology grant; they would give them a small amount in the beginning and then they would stretch out the rest over the course of the 15 years, which means we will have to pay for it. However, he referred to a previous mention that the Borough will have to install cameras for the Municipal Court; and the Borough Engineer informed that they already have cameras. Mr. Isaacson suggested that they could be used for this and he was glad to see that Closter was advancing into the Internet age.

Richard Ryan, 212 Knickerbocker Road, explained that at the end of the construction of the cross Closter trail, they are getting up to the end of the grant and all invoices should be submitted. He asked if they knew the status of the grant, how much money was spent with the County and with the Open Space in Closter; and Mayor Heymann assured that they were aware of this. She

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explained that they have to have an inventory of the money spent and there has to be an accounting, adding that Mr. Ryan will get this. Mr. Ryan referred to an e-mail Mayor Heymann had sent him and asked if they reached the amount of the grant. Mayor Heymann explained that they reached beyond 50% and it was a matching grant; so, whatever they spend at this point is Borough money. However, since the Borough pledged to match the grant by 50%, they haven't exhausted the Borough's side of it. She explained that the grant was for \$120,000, which means that the County is kicking in \$60,000 and Closter pays the rest of whatever the expenses are. In response to Mr. Ryan Mayor Heymann informed that the money can be partially in-kind and partially dollar-for-dollar. Mr. Ryan asked if there would be a way of getting a disclosure of the grant at the end and Mayor agreed that this was possible.

Mr. Glidden asked how Mr. Ryan felt about the job that has been done on the project. Mr. Ryan commended the volunteers, as well as the DPW and the Council, adding that everyone and everything has been fantastic. He voiced his opinion that it is going to be a really nice thing when it's done. Mr. Glidden thanked him for his work on this project. Mayor Heymann suggested that he thank Mr. Isaacson for putting up the bridge sign. Mrs. Amitai asked where the bridge sign was; and Mayor Heymann informed that the bridge is right off Tenakill Street, where it intersects with Ryerson Place. The trail there is marked by the bridge sign itself, and below that is a 5x7 large sign, indicating the bridge. Mr. Ryan informed that there are three main signs to be posted: one at the Library, one at Memorial Field, and another at the corner of Durie Avenue and Tenakill Street. There will also be small entry signs that will help guide people to know where the other signs are. Mr. Isaacson referred to the sign he erected and informed that it is a very temporary, which was meant for the dedication. The Environmental Commission is working to have real signs made and to make the trails more obvious as well.

Hugh Johnson, 107 Demarest Avenue, pointed out that the temporary Administrator was not in attendance. Mr. Johnson reminded that a complaint from him was forwarded to the H.R. Committee and he asked if the committee has had a meeting to discuss the complaint regarding the Construction Code Official, Mr. Sager. Ms. Tutoli informed that they did meet and assured that the entire Council will discuss it further in Closed Session this evening. He apologized for Ms. Tutoli's mother's illness; however, he reminded that Mayor Heymann had stated that Ms. Tutoli had been out of town; it came back to him the next day that Ms. Tutoli was seen at a bar the same evening of that Council Meeting. In response to Mr. Johnson, Mayor Heymann explained that she didn't respond to him about this because she would have lost her temper and she voiced frustration that Mr. Johnson accused her of being a liar. She explained that she never told him that Ms. Tutoli was taking care of her mother, but she told him that she was at a meeting, out of town, and she didn't know when she would be back. She actually came back to try to join us at this Council Meeting, which was just breaking up at the time. She was then invited to go for a drink with the other Council members after the Open Session that took place after the Closed Session. She explained that she very strongly resented being called a liar because she is not one. Mr. Johnson informed that she has lied to him before. Mr. Johnson asked when the Minutes of this evening's Closed Session will be revealed. Mayor Heymann explained that this will be announced at the time that they ask for a Closed Session, which is when she always announces same. It is her duty to announce when the information will be made public. Mr. Rogan informed that this decision cannot be made in advance. Anytime a personnel discussion or a contract negotiation is held in Closed Session, it may end that evening or it may be carried to another meeting; so until the Council has decided that that particular issue is finished for purposes of the Closed Session, it is impossible to say when it will be disclosed. Mr. Johnson voiced his understanding that a second Borough employee in the Construction Office has filed a complaint to the Administrator. Mayor Heymann informed that the Administrator is not here and she does not know anything about it. Mr. Johnson asked if Ms.

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Tutoli has received it and she informed that she has not. Mr. Johnson informed that the individual told him that she filed a complaint with the Administrator. Ms. Tutoli agreed that he has not turned it over to her.

Mayor Emeritus, Fred Pitofsky, Insurance Commissioner, explained as follows: in 2007, the Executive Committee of the Bergen County Municipal Joint Insurance Fund and the South Bergen Municipal Joint Insurance Fund entered into an Agreement with the County of Bergen to jointly purchase driving simulators for Police, Fire and EMS; the purchase is another tool to assist the members to achieve the best and most practical degree of freedom from accidents and injuries; the driving simulator unit will both be located in Mahwah and will be available in case a town requests it; as part of the purchase, the JIF will be able to have six certified simulator instructors trained by the contractor; if you have anything, please provide the JIF office with the names of your certified Police driving instructors or Fire safety instructors and they can get certified to be trained for it; he provided copies to the Borough Clerk.

Mayor Heymann asked Mr. Pitofsky what the New Jersey Environmental Risk Management Fund JIF was; and Mr. Pitofsky informed that it was part of the JIF; Closter is part of it. She is going to follow through on it.

Mr. Pitofsky also announced that the Lions Club will hold its next Pancake Breakfast on Sunday, 10/26/08, from 8:00 a.m. to 12:00 p.m.

Mr. Pitofsky also explained that Mrs. Brewster raised an issue at the Closter Improvement Commission Meeting regarding Bar Mitzvah boy with a reality for 9-1-1 kids. For his Bar Mitzvah, he took 50 children out on a boat in New York, treated them for the whole day and then took them out to dinner. He informed that Jacob Miller lives in Closter; and he asked that the Mayor and Council acknowledge him.

7. COMMUNICATIONS

a. MAIL LIST – SEPTEMBER 11, 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.

No one wished to be heard.

b. MAIL LIST – SEPTEMBER 18, 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: Mayor Heymann announced that she is following up on Item No. 2; Mrs. Amitai asked that Item No. 2 be removed.

Item No. 2 - Received 09/15/08, dated 09/12/08, from Farouk Ahmad, P.E., Director, Bergen County Department of Planning and Economic Development; to Mayor Heymann, regarding Bergen County Comprehensive Farmland Preservation Plan; Farms Being Considered for Preservation; Mayor Heymann

Mrs. Amitai thought it was important to pass this along to the Master Planner. Mayor Heymann stated that it is important and she passed it along to him; she spoke to Bob Abbatomarco.

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11. 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.

9a. 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

13.* BILL RESOLUTION – SEPTEMBER 30, 2008

TO BE PREPARED BY TREASURER

14.* RESOLUTION AUTHORIZING AD INTERIM PERMIT FOR PLENARY RETAIL CONSUMPTION LICENSE NO. 0207-33-006-006 ISSUED TO KLIP, LLC. t/a ASSEMBLY EAST HILL, 597 PIERMONT ROAD

15.* RESOLUTION APPROVING THE SETTLEMENT OF A TAX APPEAL FOR THE YEARS 2006, 2007 & 2008; O&P REALTY, BLOCK 1201, LOT 1, CORNER NAUGLE STREET AND RAILROAD AVENUE (Received from Borough Attorney 5/19/08)
Adjourned from RM 5/28/08, RM 6/11/08, RM 6/25/08, RM 7/9/08, RM 7/23/08; RM 9/10/08; adjourned to this meeting.

At this time, Mayor Heymann pointed out that the Borough Assessor was in attendance and will be able to speak on this subject. Therefore, she pulled it.

16.* RESOLUTION GRANTING APPROVAL FOR ESTIMATE #2 AND FINAL IN THE AMOUNT OF \$8,445.60 AND CHANGE ORDER #1 AND FINAL SUBMITTED BY D.R. MULLEN CONSTRUCTION CO., INC. FOR PROJECT KNOWN AS CLOSTER NATURE TRAIL, INCREASING THE CONTRACT AMOUNT TO \$78,830.99 ; AND APPROVING TWO-YEAR MAINTENANCE BOND IN THE AMOUNT OF \$11,824.65 (Received from Administrator/Treasurer 9/18/08)

At this time, Mayor Heymann explained that this was the final price for the bridge alone. Richard Ryan asked what the maintenance was for \$11,824.65; and Mr. DeNicola explained as follows: by Local Public Contracts Law, they are required to provide a two year Maintenance Bond in the amount of 15% of the overall construction costs; they put the bond up for the two years for Closter; if there is a problem, they can be contacted to fix it; if they don't, then Closter can liquidate the bond and fix it themselves. Mr. Ryan voiced his understanding that the Borough gets a warranty; and Mr. DeNicola explained that this was correct and they received a certificate for same. However, this is only for the structure. For example, if they did some poor sub-structure work with the concrete; that's when they would have D.R. Mullen fix it or go for the Maintenance Bond.

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- 17.* RESOLUTION GRANTING APPROVAL FOR ESTIMATE #4 AND FINAL IN THE AMOUNT OF \$108,995.70 AND CHANGE ORDER NO. 1 AND FINAL SUBMITTED BY ROCKBORN TRUCKING COMPANY, FOR PROJECT KNOWN AS 2007 ROAD IMPROVEMENT PROGRAM; AND APPROVING THE TWO-YEAR MAINTENANCE BOND IN THE AMOUNT OF \$150,706.20) (Received from Administrator/Treasurer 9/18/08)
- 18.* RESOLUTION GRANTING APPROVAL FOR ESTIMATE #2 AND FINAL IN THE AMOUNT OF \$49,114.60 AND CHANGE ORDER #2 AND FINAL SUBMITTED BY HBC COMPANY, INC. FOR PROJECT KNOWN AS HOMANS AVENUE AND OAKLAND AVENUE INTERSECTION IMPROVEMENT; AND APPROVING THE TWO YEAR MAINTENANCE BOND IN THE AMOUNT OF \$10,594.50 (Received from Administrator/Treasurer 9/18/08)
- 19.* RESOLUTION RE REFUND OF 2008 TAX OVERPAYMENT IN THE AMOUNT OF \$5,206.90 TO COUNTRYWIDE TAX SERVICE FOR BLOCK 1605 LOT 12 (Received from Tax Collector's office 9/18/08)
- 20.* RESOLUTION AUTHORIZING TREASURER TO REFUND 2008 HOMESTEAD REBATE TAX OVERPAYMENTS TO THE FOLLOWING HOMEOWNERS: KILDUFF, J&A IN THE AMOUNT OF \$1,492.08 FOR BLOCK 1207 LOT 16; RUDICK, R&C IN THE AMOUNT OF \$102.81 FOR BLOCK 1705 LOT 3; FERRRELL II, EDWARD IN THE AMOUNT OF \$2,000.00 FOR BLOCK 1806 LOT 29.01; FERRARO, J&D IN THE AMOUNT OF \$1,000.00 FOR BLOCK 2102 LOT 5; AND LEE, MIN SUN & ME II IN THE AMOUNT OF \$2,000.00 FOR BLOCK 2302 LOT 26 (Received from Tax Collector's office 9/18/08)
- 21.* RESOLUTION CONFIRMING ENDORSEMENT OF COMMUNITY DEVELOPMENT GRANT IN THE AMOUNT OF ~~\$110,000.00~~ FOR A.D. ACCESSIBLE BATHROOMS IN TWO PUBLIC PARKS IN THE MUNICIPALITY (This Resolution does not obligate the financial resources of the municipality and is intended solely to expedite expenditure of the aforesaid CD funds) (Received from Borough Attorney 9/18/08)

At this time, Mayor Heymann informed that \$110,000.00 should be corrected to read \$205,000.00.

- 19.* *POSSIBLE* APPROVAL OF CLOSTER SUSTAINABLE INITIATIVE MASTER PLAN COMPONENT (Requested by Mayor 8/25/08/Adjourned from RM 9/10/08)
RESOLUTION TO BE PREPARED, IF AND WHEN APPROVED

At this time, Mayor Heymann informed that this would be tabled again and she pulled it.

MOTIONS

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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

<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

22.* 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

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

Referring to Item Nos. 20 and 21, Mayor Heymann informed that there were no new appointments at
 this time.

- 23.* MOTION APPROVING THE FOLLOWING MINUTES:
- a. REGULAR MEETING HELD AUGUST 27, 2008 (Distributed 9/11/08) ABSTENTION:
KASHWICK
 - b. WORK SESSION HELD SEPTEMBER 10, 2008 (Distributed 9/18/08) ABSTENTION:
TUTOLI
 - c. REGULAR MEETING HELD SEPTEMBER 10, 2008 (Distributed 9/22/08)
ABSTENTION: TUTOLI

24.* MOTION GRANTING APPROVAL FOR THE POLICE DEPARTMENT TO IMPOSE A
 9:00 P.M. CURFEW ON CABBAGE NIGHT, 10/30/08, AND HALLOWEEN, 10/31/08
 (Received from Chief of Police)

25.* GRANTING APPROVAL FOR TEMPLE BETH EL NURSERY SCHOOL TO CONDUCT
 SPECIAL EVENT, COMMEMORATING THEIR 50TH ANNIVERSARY, AT SCHAUBLE
 PARK, ON SUNDAY, 9/21/08 FROM 2 P.M. TO 5 P.M.; WITH 2 HOURS FOR SET UP
 AND 1 HOUR FOR CLEAN UP; THE FOLLOWING EVENTS TO BE HELD: TWO
 BOUNCY INFLATABLES; TWO MECHANICAL RIDES; 2 PORTA JOHNS (Approval
 provided by Risk Management Consultant on 9/12/08; copied to Borough Clerk 9/17/08)

At this time, Mayor Heymann voiced her understanding that the Council approved this
 verbally, but not officially.

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26.* ACCEPTANCE OF THE FOLLOWING MONTHLY REPORTS:

a. CHIEF OF POLICE – AUGUST 2008 (Received 9/18/08)

The following items were removed by the following individuals: Mayor Heymann previously removed Item Nos. 12, 19, 20 and 21; Mr. Kashwick asked that Item No. 17 be removed; Mr. Isaacson asked that Item No. 18 be removed; Mrs. Amitai asked that Item Nos. 13, 14 and 15 be removed.

9b. VOTE ON CONSENT AGENDA ITEMS

Motion to approve the Consent Agenda minus Item Nos. 12, 13, 14, 15, 17, 18, 19, 20 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.

33. REVIEW AND VOTE ON ITEMS REMOVED FROM CONSENT AGENDA

At this time, Mrs. Amitai referred to Item Nos. 13, 14 and 15 and questioned the way these Resolutions were written, as she didn't understand them. She asked what the original contract price was and how much it was changed by, as it was unclear. Mr. DeNicola explained that he provided the figures to John DiStefano. He addressed each Resolution at this time, providing the figures to the Council.

13. RESOLUTION GRANTING APPROVAL FOR ESTIMATE #2 AND FINAL IN THE AMOUNT OF \$8,445.60 AND CHANGE ORDER #1 AND FINAL SUBMITTED BY D.R. MULLEN CONSTRUCTION CO., INC. FOR PROJECT KNOWN AS CLOSTER NATURE TRAIL, INCREASING THE CONTRACT AMOUNT TO \$78,830.99 ; AND APPROVING TWO-YEAR MAINTENANCE BOND IN THE AMOUNT OF \$11,824.65 (Received from Administrator/Treasurer 9/18/08)

Mr. DeNicola explained that the original price of the bridge was \$78,634; there was a change order in the amount of \$196.96; and there was roughly a \$200 difference.

14. RESOLUTION GRANTING APPROVAL FOR ESTIMATE #4 AND FINAL IN THE AMOUNT OF \$108,995.70 AND CHANGE ORDER NO. 1 AND FINAL SUBMITTED BY ROCKBORN TRUCKING COMPANY, FOR PROJECT KNOWN AS 2007 ROAD IMPROVEMENT PROGRAM; AND APPROVING THE TWO-YEAR MAINTENANCE BOND IN THE AMOUNT OF \$150,706.20) (Received from Administrator/Treasurer 9/18/08)

Mr. DeNicola informed that they transferred monies over from the Sidewalk Program: roughly \$10,000; the original contract amount was \$998; the adjusted amount is \$1,000,004; the difference is roughly \$6,000. In response to Mrs. Amitai, Mr. DeNicola informed that the percentage was less than 6% and reminded that this was authorized by the Council.

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15. RESOLUTION GRANTING APPROVAL FOR ESTIMATE #2 AND FINAL IN THE AMOUNT OF \$49,114.60 AND CHANGE ORDER #2 AND FINAL SUBMITTED BY HBC COMPANY, INC. FOR PROJECT KNOWN AS HOMANS AVENUE AND OAKLAND AVENUE INTERSECTION IMPROVEMENT; AND APPROVING THE TWO YEAR MAINTENANCE BOND IN THE AMOUNT OF \$10,594.50 (Received from Administrator/Treasurer 9/18/08)

Mr. DeNicola informed that the original contract was \$74,500; the final is \$7,600; there is a reduction of roughly \$3,900. This was mostly due to the Police, as they were very efficient; they used on-duty Police personnel, so they saved the Borough roughly \$6,400.

Motion to approve Consent Agenda Item Nos. 13, 14 and 15 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.

17. RESOLUTION AUTHORIZING TREASURER TO REFUND 2008 HOMESTEAD REBATE TAX OVERPAYMENTS TO THE FOLLOWING HOMEOWNERS: KILDUFF, J&A IN THE AMOUNT OF \$1,492.08 FOR BLOCK 1207 LOT 16; RUDICK, R&C IN THE AMOUNT OF \$102.81 FOR BLOCK 1705 LOT 3; FERRRELL II, EDWARD IN THE AMOUNT OF \$2,000.00 FOR BLOCK 1806 LOT 29.01; FERRARO, J&D IN THE AMOUNT OF \$1,000.00 FOR BLOCK 2102 LOT 5; AND LEE, MIN SUN & ME II IN THE AMOUNT OF \$2,000.00 FOR BLOCK 2302 LOT 26 (Received from Tax Collector's office 9/18/08)

Mr. Kashwick referred to the Homestead Rebate Tax Overpayment and voiced curiosity as to how this could happen, as this is a State form. He asked if there was some sort of deduction in the value of the home; and Mr. Rogan suggested that Mrs. Mattiace may be able to address this. Mayor Heymann asked Mrs. Mattiace to come forward; and Mr. Rogan pointed out that this was from the Tax Collector. Mr. Kashwick reiterated his question as to how they could have an overpayment of a tax rebate. Mrs. Mattiace explained that she couldn't answer this, as it was an issue for the Tax Collector's Office. Mayor Heymann explained that she didn't understand it either, because a homestead rebate tax is sent by the State. Mr. Rogan advised that they could pull it and find out. He assured he would follow up on same.

18. RESOLUTION CONFIRMING ENDORSEMENT OF COMMUNITY DEVELOPMENT GRANT IN THE AMOUNT OF ~~\$110,000.00~~ \$205,000.00 FOR A.D. ACCESSIBLE BATHROOMS IN TWO PUBLIC PARKS IN THE MUNICIPALITY (This Resolution does not obligate the financial resources of the municipality and is intended solely to expedite expenditure of the aforesaid CD funds) (Received from Borough Attorney 9/18/08)

Steve Isaacson, 97 Columbus Avenue, was curious as to the cost of this. Mayor Heymann explained as follows: she will break it down for him, because she is in the process of writing the grant; the bathrooms themselves, prefab – the structure with indoor plumbing and whatever else goes with it will cost \$37,5000; the installation costs account for all of the rest of the money; they have to be specked out; they have to be engineered; there have to be lines coming in from the street for plumbing and the electricity; she and Nick DeNicola had some discussions about the costs.

Mr. DeNicola explained that it is probably on the high side, adding that when you are requesting a grant, you don't want to be on the low side. Mr. Isaacson asked if there would be storage facilities or snack stands; and Mayor Heymann agreed that there wouldn't and assured

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she had pictures to show him. Mr. Isaacson asked who would be responsible for maintaining the bathrooms and paying for the electricity. Mayor Heymann informed that the DPW is responsible for public parks and Mr. Isaacson pointed out that the Borough will pay for it. Mr. Isaacson suggested making them pay toilets, so they can recoup some of the maintenance.

Mrs. Amitai asked if they really want to put a permanent structure on the fields. She asked if it was necessary. Mayor Heymann informed that they had a port –a-potty there now. Mr. Hennessey asked if the Borough Engineer was involved regarding the location of the bathrooms; and Mr. DeNicola informed that he was unaware of the location. Mayor Heymann explained that the location has not been determined. Mr. Hennessey questioned how they could determine the cost if they didn't know the location. Mayor Heymann informed that it was a grant proposal. If and when it is granted, then they will go into the details.

Mr. Isaacson questioned if there could be a cap on this project, so if the cost goes above it, then they can't do it. Mr. Glidden thought this was a good idea, but only after they get the grant. Mayor Heymann explained that this particular Resolution does not obligate the Borough in any way. If they get the grant, all of the fiscal details will come before them before any money is spent. Mr. Isaacson pointed out that grants in the past have only covered a portion of the actual project. Mr. Glidden suggested they should make a note to have a cap.

Motion to approve was made by Councilman Barad.

At this time, Mrs. Amitai asked which two parks they were referring to and Mayor Heymann informed that it was Schauble Park and Mollicone Park. Mr. Hennessey suggested that the locations of the bathrooms be addressed in the Resolution. Mayor Heymann explained she doubted they would get the grant for both bathrooms. She explained that the grant has to be re-written and if they want to specifically name the two parks, it is perfectly fine. Mr. Hennessey pointed out that it would avoid a lot of questions and Mayor Heymann assured they would include this in the approval, with the permission of Dr. Barad as he made the motion.

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

At this time, Mr. Rogan asked if Consent Agenda Item No. 19 was being adjourned and Mayor Heymann informed that it was being carried.

12. RESOLUTION APPROVING THE SETTLEMENT OF A TAX APPEAL FOR THE YEARS 2006, 2007 & 2008; O&P REALTY, BLOCK 1201, LOT 1, CORNER NAUGLE STREET AND RAILROAD AVENUE (Received from Borough Attorney 5/19/08)
Adjourned from RM 5/28/08, RM 6/11/08, RM 6/25/08, RM 7/9/08, RM 7/23/08; RM 9/10/08; adjourned to this meeting.

Mr. Rogan explained that there was a question that came up at the last Council Meeting. During his presentation, Mr. Izenberg referred to the property as being in the industrial zone, which they were concerned about. A letter was written and he responded to them, saying that even though he said that, it doesn't really change his opinion. Borough Tax Assessor, Mrs. Mattiace, voiced her understanding that Mr. Izenberg misspoke and Mayor Heymann agreed, adding that he indicated that he had done so in his letter. Mr. Rogan reiterated that it doesn't change his opinion in terms of his recommendation of the settlement proposal. Mayor Heymann voiced her understanding that the consensus of the Council was to accept the recommendation of Mr. Izenberg.

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

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

At this time, Mayor Heymann asked if there was any other matter to come before the Council and no one wished to be heard.

- a. CONTINUED DISCUSSION RE PARKING SPACE FEE (Requested by Mayor 1/18/08); RM 9/10/08

Mayor Heymann informed that the parking space fee will remain on the Agenda.

- 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)

At this time, Mayor Heymann asked for a motion to go into Closed Session, adding that it should be very brief and they will go into the Work Session following the Closed Session. Mr. Glidden asked for clarification of whether they would have one closed session or two. Mayor Heymann informed that they would have one Closed Session. Mr. Kashwick asked if it was fair to make the public wait, rather than to have the Closed Session after the Regular Meeting. However, Mayor Heymann explained that she didn't anticipate the Closed Session to be very long. She felt that the items that are going to be discussed in Closed Session are very important and they will be having an outside person giving testimony that they don't want to keep waiting too long. She also wants their full attention while they discuss the items. She welcomed the public to wait outside, assuring that they wouldn't be held up too long.

- 27c. Motion approving the following Closed Session Resolution at 8:53 p.m. was made by Councilman Barad, seconded by Councilman Kashwick and declared carried by Mayor Heymann upon the affirmative vote of Councilpersons Glidden, Hennessey, Kashwick, Barad, Tutoli and Amitai:

OMNIBUS OPEN PUBLIC MEETINGS ACT RESOLUTION authorizing the governing body pursuant to N.J.S.A. 10:4-12 to exclude the public from the next portion of the meeting in order to permit the governing body to discuss per N.J.S.A. 10:4-12 (b)7), "Pending or anticipated litigation or contract negotiations", and N.J.S.A. 10:4-12(b)(8), "A matter involving public officers"; and that the item(s) under discussion in the closed meeting would be disclosed to the public at the conclusion of the investigation and contract negotiations which should be within 4 to 6 weeks.

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

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29. ADJOURN

Mayor Heymann adjourned the Regular Meeting at 8:53 p.m. to go into Closed Session and then proceed from Closed Session to the Work Session.

Provided to the Mayor and Council
on October 2, 2008 for approval
at the Regular Meeting to be held
Monday, October 6, 2008

Loretta Castano, RMC
Borough Clerk

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

Approved at the Regular Meeting held 10/6/08
Consent Agenda Item No. 22a.