

MAYOR AND COUNCIL  
BOROUGH OF CLOSTER

REGULAR MEETING MINUTES – SEPTEMBER 9, 2009 - 7:30 P.M.

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

1. PLEDGE OF ALLEGIANCE

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

2. OPEN PUBLIC MEETINGS ACT STATEMENT

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

3. ROLL CALL

Those present were the following:

Mayor Sophie Heymann  
Councilpersons John C. Glidden, Jr., Thomas Hennessey, John Kashwick,  
David Barad (7:58 p.m.), Victoria Amitai (8:30 p.m.)  
Borough Administrator, Quentin Wiest  
Borough Attorney, Edward T. Rogan  
Borough Clerk, Loretta Castano  
Borough Engineer, Nick DeNicola  
Chief of Police, David Berrian

The following persons were absent:

Councilwoman Cynthia Tutoli

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)

Steve Isaacson, 97 Columbus Avenue, questioned Ordinance No. 2009:1055; and Mayor Heymann explained that the Ordinance would be removed from the Agenda.

Hugh Johnson, 107 Demarest Avenue, questioned the reason for the arrows on High Street and was advised by the Borough Engineer that this is a County road but he would look into the matter.

Mr. Johnson advised that he had been served with a complaint and summons on a charge of harassment by the Tax Collector. He referred to a visit he made on 7/3 to Lieutenant D'Amico's home and upon egressing onto Cedar Lane a white Explorer blocked his path for 45 seconds, before proceeding to Knickerbocker Road and baiting him to follow her. He noted that he had been warned by Lieutenant D'Amico that if he contacted her at any time, she would consider charging him with harassment. He referred to her initials on the John DiStefano vacation voucher for 2008 and which was signed John DiStefani. He said that he would be in court on 10/1 on this matter. Lieutenant Dan O'Brien picked up a packet from his home at which time Lieutenant O'Brien referred to alleged statements made by Mr. Johnson that he and the entire criminal justice division would be coming to clean up the town. Mr. Johnson advised that he had not made those remarks, that same are obstructive and are probably coming from the Mayor with her buddies in the legislature and that he is not having the criminal justice division come here to clean up the town which would be obstructive. He noted that if you obstruct justice you are going to be punished and your neighbor Mayor of Demarest is now being indicted as well. He noted that people would be going to jail, starting with the Mayor and Maria Passafaro would not testify to Robin Green because her initials appear on the vacation voucher.

Chief Berrian said he found Mr. Johnson's characterization of Maria Passafaro as highly offensive. Borough Attorney said that he has warned Mr. Johnson on numerous occasions that there should not be public discussion of public employees at a public meeting and that they are not considered public officials for purposes of defamation lawsuits but he continues to talk about his private disagreements with people who happen to be employed by the Borough. Letters have been written to Mr. Johnson, which he has not accepted and he has threatened us with Lieutenant Dan O'Brien at five meetings, which is reflected in the minutes. He said he has no obligation to return phone calls from Mr. Johnson.

Mr. Johnson referred to the clock and that he was soliciting the \$7,800 needed for the repair.

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Borough Attorney advised Mr. Johnson that he does not have the authority to determine how the Borough conducts business and he is not a Borough official and should not be communicating with Borough vendors or misrepresenting who you are. You are a citizen with the right to make a request at a Mayor and Council meeting and if the Mayor and Council wishes to change vendors or make an arrangement to contractually fix a clock or any other service it is up to them not you. Mr. Johnson advised that he would be soliciting contributions from the citizenry in time for the 300<sup>th</sup> anniversary of the town. He said it was his right and would not cost the Borough any money. Borough Attorney said Mr. Johnson is not a Borough representative and should not be soliciting funds on behalf of the Borough without approval. Mr. Johnson said he would be soliciting the citizenry because the Borough and the Mayor does not care and there is a fund left over from the grant that would be added to the contributions.

Mayor Heymann said that she had received a telephone call from the company that had provided the clock advising that on the basis of Mr. Johnson's telephone call the service man had been called to task. Borough Attorney said that Mr. Johnson does not have the right to interfere in everyday Borough business and that he is on notice to stop the interference or legal action could be taken.

Steve Isaacson, 97 Columbus Avenue, referred to two utility notices that he had received and he questioned why the Borough is planting trees under utility lines. Mayor Heymann said the trees are being planted in far enough and low enough that would not affect the utility lines.

Jack Kelly, 132 Herbert Avenue, referred to Ray Cywinski and was advised by Mayor Heymann that he is a tree expert under contract with the Borough to provide tree reports. Mr. Kelly cited the existence of a hole on Hickory Lane with fish in same and Borough Engineer advised that the Borough wanted to fix a portion of the stream just north of the Hartwell residence and the DEP advised that this is a C-1 stream and a 50' buffer must be maintained. Mayor Heymann said at the present time we can do nothing about the stream because it requires very expensive permitting and there is no guarantee that the DEP would allow the repair. She suggested that Mr. Kelly contact the DEP on behalf of his neighbors.

Dr. Barad entered the meeting at 7:58 p.m.

Mr. Kelly referred to the 2008 Audit Report and noted that all the problems that John DiStefano had said were taken care of still remain in the report. Mayor Heymann said that this matter would be discussed later in the meeting.

Hugh Johnson, 107 Demarest Avenue, requested that Councilman Barad, who just entered the meeting hear what he had missed and that the Borough Attorney had threatened legal action against him. Borough Attorney advised Mr. Johnson that he may not speak each time a Council person enters a meeting and that if the Council person is interested in your comments the minutes could be read.

5. COMMUNICATIONS

a. MAIL LIST – AUGUST 27, 2009 – Mayor Heymann reviewed the correspondence distributed on this date and asked in any member of the council wished to address any matter or provide any comments.

The following items were removed by the following individuals: Mr. Johnson removed Item No. 13.

Item No. 13 Received 8/26/09, dated 8/26/09 from John J. Lawler, 113 Knickerbocker Road re Petition requesting a Police Department telephone reminder to citizens that tax payments are coming due (Copy to Maria Passafaro, James Winters).

Hugh Johnson, 107 Demarest Avenue, questioned why this type of reminder is needed when there is not an emergency. Mayor Heymann said that a resident has a right to make a request; and if this request were to be addressed, it would have been placed on the Agenda.

b. MAIL LIST – SEPTEMBER 3, 2009 – Mayor Heymann reviewed the correspondence

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distributed on this date and asked if any member of the council wished to address any matter or provided any comments.

The following items were removed by the following individuals: Mr. Isaacson removed Item No. 7, 13, 15, and 16. Mr. Kafer removed Item No. 14. Mr. Johnson removed Item No. 12.

Item No. 7 – Received 8/31/09 from Mayor, dated 8/26/09 from Michelle Damiani, Manager – Community Relations, Rockland Electric Company to Mayor, c: William Dahle, Dept. of Public Works, John DiStefano, Administrator, David Berrian, Chief, Closter Police Depart., Louise Ungar, Shade Tree Commission re Vegetation Management – Distribution Line Clearance Program – Notice of work in the Borough of Closter.

Steve Isaacson, 97 Columbus Avenue, questioned if the utility lines could be buried as Borough streets are paved because of the tree trimming involved, in addition to the poles leaning over because of the weight of the lines. Mayor Heymann informed that the Borough has no authority over this matter.

Item No. 12 – Received 8/29/09, dated 08/22/09 from Kevin Whitney, Secretary, Knickerbocker Hook and Ladder Company re Schauble Field – Emergency Alert Horn System Problems & Horn House Conditions.

Hugh Johnson, 107 Demarest Avenue, questioned the problem with the horn since same goes down every year. Mayor Heymann said there are various problems tied to the age of the equipment. The parts are difficult to obtain and the letter requests the status of the structure that houses equipment for other Borough communications that also need repairs.

Item No. 13 – Hand delivered 9/2/09, dated 8/25/09 from Lyndsay McCrudden, 448 Demarest Avenue re request for permission to hold a birthday party at Ruckman Park (no date specified) (Copy to Jim Oettinger, Glenn Parsells, L. Sinowitz).

Steve Isaacson, 97 Columbus Avenue, questioned if a citizen needs permission to use a public park. Borough Attorney said that the request includes use of a balloon-jumping tent. Mr. Isaacson said this is a continuation of closing the park for the summer and renting out our parks. Mayor Heymann said there has been no Council discussion on this matter.

Item No. 14 – Hand delivered 9/3/09 with no date from Sofia Sasouness, Alpine resident to Mayor and Council re requesting permission to connect with sewer outlet, using infra-red sealing, on recently re-paved Giletta Court pursuant to the Agreement between the Borough of Closter and Borough of Alpine for sewer connection.

Michael Kafer, 261 Parsells Lane, referred to the cost of sewer charges that the Borough of Closter is subsidizing for Alpine residents. Rates for Closter residents are based on assessed valuation. The 2009 budget does not indicate a revenue line item for sewer charges from Alpine. He suggested that this line item be included in future years so that these items can be properly budgeted. Mayor Heymann said that a calculation was done to make a fair evaluation and the contract indicates that the fair rate can be changed. She said she would address this matter for future budgets.

Mr. Sasouness, 343 Anderson Avenue, questioned when a decision would be made on his request for a sewer connection. Mayor Heymann said that the matter would be discussed at the Work Session following this meeting.

Jesse Rosenblum, 65 Knickerbocker Road, questioned how many other Alpine properties are available for a sewer connection. Borough Engineer said that the agreement covers approximately 16 properties of which a majority have already been connected.

Item No. 15 - Christopher Neuffer, President, EnviroTACTICS, to NJ Department of Environmental Protection; Attention: Office of Community Relations c: Closter Borough Clerk, Closter Borough Health Department, Judith Morrow, NJDEP Case Manager re \*Public Notification and Sensitive Population & Resource Checklist re: Former Closter Dock Service Center Site, 309 Closter Dock Road, Closter, Bergen County, Block 1701, Lot 1, NJDEP Preferred Identification #004436 (letter only!) Copy to Construction Official, Board of Health - letter only!) DISK ON FILE IN BOROUGH CLERK'S OFFICE!!

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Item No. 16 – Received 9/2/09, dated 8/29/09 from Steven Papatrefon, Senior Project Manager, HL Petroleum co., Inc., to Borough Clerk re Public Notification and Sensitive Population & Resource Checklist re: Former Super Value (Getty), 121 Schraalenburgh Road; Tax Block 502 and Lot 3, NJDEP Preferred Identification \*010877, Contamination of the soil and groundwater has been identified at the site – Sensitive Population & Resource checklist and supporting documentation attached (letter only)(Board of Health, Construction Official – letter only) DISK ON FILE IN BOROUGH CLERK’S OFFICE.

Steve Isaacson, 97 Columbus Avenue requested that these sensitive environmental items be copied to the Environmental Commission for discussion at Commission meetings.

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

7a. REVIEW OF CONSENT AGENDA ITEMS  
(PROCEDURE TO BE EXPLAINED BY MAYOR HEYMANN)

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

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

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

ORDINANCES AND RESOLUTIONS

INTRODUCTION OF THE FOLLOWING ORDINANCES – PUBLIC HEARING –  
10/14/09 @ 7:30 P.M. OR AS SOON THEREAFTER AS THE MATTER MAY BE  
HEARD:

a. NO. 2009:1053, “AN ORDINANCE AMENDING SCHEDULE A: LIMITING SCHEDULE, SPECIFICALLY, CHANGING THE MAXIMUM HEIGHT ALLOWED IN DISTRICT NO. 3, BUSINESS AREA, PURSUANT TO THE RECOMMENDATION OF THE PLANNING BOARD” (Received from Borough Attorney 8/27/09)

This ordinance was removed from the Agenda by Mayor Heymann.

b. NO. 2009:1054, “AN ORDINANCE TO DETERMINE THE RATE, AMOUNT, SALARIES, WAGES, COMPENSATION, AND THE METHOD OF PAYMENT THEREOF TO PERSONS HOLDING CERTAIN OFFICES AND POSITIONS OF EMPLOYMENT IN THE BOROUGH OF CLOSTER FOR THE YEARS 2009 AND 2010, OR AS OTHERWISE NOTED” (Received from Administrator 9/4/09)

c. NO. 2009:1055, “AN ORDINANCE APPROPRIATING A SUM NOT TO EXCEED \$182,000.00 FROM OPEN SPACE, RECREATION, FARMLAND, AND HISTORIC PRESERVATION TRUST FUND FOR PARK, FARMLAND, AND HISTORIC PRESERVATION IMPROVEMENTS (Received from Borough Attorney 9/9/09 @10:12 a.m.)

d. NO. 2009:1056, “AN ORDINANCE TO CREATE THE POSITION OF BUILDING MAINTENANCE/ROAD DEPARTMENT FOR THE BOROUGH OF CLOSTER’S DEPARTMENT OF PUBLIC WORKS” (Requested by Borough Attorney 12:19 p.m.)  
TO BE PREPARED BY BOROUGH ATTORNEY

9.\* BILL RESOLUTION – SEPTEMBER 15, 2009  
TO BE PREPARED BY DEPUTY TREASURER

10.\* POSSIBLE APPOINTMENT(S) OF SALARIED EMPLOYEES (NOT MADE AT THE

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REORGANIZATION MEETING HELD 1/5/09) RESOLUTIONS TO BE PREPARED BY ACTING ADMINISTRATOR/TREASURER (Adjourned from RM 1/14/09; 1/28/09; 2/11/09; 2/25/09; 3/11/09; 3/25/09; 4/6/09; 4/22/09; 5/13/09; 5/27/09; 6/10/09; 6/24/09; 7/8/09; 7/22/09; 8/12/09; 8/26/09):

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

- 11.\* RESOLUTION APPOINTING MICHAEL MARINIELLO, JR., CMFO, AS THE BOROUGH TREASURER FOR REMAINDER OF YEAR ENDING 12/31/09 - PART TIME, \$36.05 PER HOUR, NOT TO EXCEED 15 HOURS PER WEEK TO BE PREPARED BY BOROUGH ATTORNEY (Requested 9/1/09)
- 12.\* RESOLUTION AUTHORIZING THOSE LICENSEES WHO HAVE NOT RECEIVED THEIR TAX CLEARANCE CERTIFICATES FROM THE DIVISION OF TAXATION, WHO HAVE COMPLIED WITH ALL OTHER REQUIREMENTS FOR RENEWAL OF THEIR 2009-2010 ANNUAL LIQUOR LICENSE RENEWALS, TO APPLY FOR AN AD INTERIM PERMIT UNTIL SUCH TIME AS THEIR TAX CLEARANCE CERTIFICATE IS OBTAINED FROM THE DIVISION OF TAXATION
- 13.\* RESOLUTION MAKING TEMPORARY APPOINTMENTS IN THE BUILDING DEPARTMENT (Requested by Administrator 9/3/09) TO BE PREPARED BY ADMINISTRATOR
- 14.\* RESOLUTION AUTHORIZING CHANGE ORDER FOR 2009 ROAD IMPROVEMENT PROGRAM (Estimate No. 4 and Voucher No. 4 received from Borough Engineer 9/2/09) TO BE PREPARED BY ADMINISTRATOR
- 15.\* RESOLUTION APPROVING CORRECTIVE ACTION PLAN FOR THE 2008 ANNUAL AUDIT – TO BE PREPARED BY CHIEF FINANCIAL OFFICER

MOTIONS

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

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

\*\* Mayoral Appointment
- 17.\* APPROVING THE FOLLOWING MAYOR AND COUNCIL MINUTES (Distributed 9/3/09):
  - a. REGULAR MEETING OF AUGUST 26, 2009 - ABSTENTION: GLIDDEN
  - b. WORK SESSION OF AUGUST 26, 2009 – ABSTENTION: GLIDDEN

- 18.\* MOTION APPOINTING \_\_\_\_\_ TO SERVE AS MEMBER OF THE

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ZONING BOARD OF ADJUSTMENT FOR AN UNEXPIRED 4-YEAR TERM (MATTES)  
TO 12/31/09 (14. M.L. 6/25/09) Adjourned from RM 7/8/09; 7/22/09; 8/12/09; 8/26/09

- 19.\* MOTION GRANTING APPROVAL FOR USE OF FIRE PREVENTION VEHICLES (771 & 775), FIRE CHIEF'S VEHICLE (751), ASSISTANT CHIEF'S VEHICLE (752) AND SUPPORT VEHICLE (767) FOR THE PURPOSE OF ATTENDING THE NJ STATE FIREMEN'S CONVENTION IN WILDWOOD, NJ, FOR THE DATES OF 9/17/09,9/18/09, 9/19/09 AND 9/20/09 (5. M.L. 8/27/09)
- 20.\* MOTION GRANTING APPROVAL FOR BLOCK PARTY TO BE HELD ON WHITNEY STREET ON SUNDAY, 10/4/09 FROM 1 P.M. TO 7 P.M.; RAIN DATE: SUNDAY, 10/11/09 (11. M.L. 9/1/09)
- 21.\* ACCEPTANCE OF THE FOLLOWING MONTHLY REPORTS:  
a. CHIEF OF POLICE – JULY 2009 (Received 8/27/09)  
a. CONSTRUCTION OFFICIAL – AUGUST 2009

Councilwoman Amitai entered the meeting at this time.

The following items were removed from the Consent Agenda by the following individuals: Mayor Heymann previously removed Item Nos. 8a, 10, 16, 18. Hugh Johnson removed Item No. 11. Councilwoman Amitai removed Item No. 13. Borough Engineer removed Item 14. Jack Kelly removed Item No. 15.

7b. VOTE ON CONSENT AGENDA ITEMS

Motion to approve the Consent Agenda minus Item Nos. 8a, 10, 11, 13, 14, 15, 16 and 18 was made by Councilman Barad seconded by Councilman Glidden and declared carried by Mayor Heymann upon the affirmative vote of Councilpersons Glidden, Hennessey, Kashwick, Barad and Amitai.

22. REVIEW AND VOTE ON ITEMS REMOVED FROM CONSENT AGENDA

11. RESOLUTION APPOINTING MICHAEL MARINIELLO, JR., CMFO, AS THE BOROUGH TREASURER FOR REMAINDER OF YEAR ENDING 12/31/09 - PART TIME, \$36.05 PER HOUR, NOT TO EXCEED 15 HOURS PER WEEK TO BE PREPARED BY BOROUGH ATTORNEY (Requested 9/1/09)

Hugh Johnson, 107 Demarest Avenue, requested the official position of Dorothy Woods; and Mayor Heymann advised that she was Deputy Treasurer.

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

13. RESOLUTION MAKING TEMPORARY APPOINTMENTS IN THE BUILDING DEPARTMENT (Requested by Administrator 9/3/09) TO BE PREPARED BY ADMINISTRATOR

Councilwoman Amitai referred to the Personnel Manual section that required at one time that the Personnel Committee interview all department heads; and she questioned the legality of the proposed appointment. Borough Attorney answered that this is a temporary position and a temporary position does not require an interview. Councilman Barad advised that the personnel manual is not legally binding but only provides guidelines.

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

14. RESOLUTION AUTHORIZING CHANGE ORDER FOR 2009 ROAD IMPROVEMENT

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PROGRAM (Estimate No. 4 and Voucher No. 4 received from Borough Engineer 9/2/09)  
TO BE PREPARED BY ADMINISTRATOR

Borough Engineer advised that this was not the final Change Order and only rectifies quantities; and at this time, were are roughly \$50,000 less than the contract value. There would be a final Change Order within a month that could raise the contract amount by approximately \$1,000.

Motion of approval 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.

15. RESOLUTION APPROVING CORRECTIVE ACTION PLAN FOR THE 2008 ANNUAL AUDIT – TO BE PREPARED BY CHIEF FINANCIAL OFFICER

In answer to Jack Kelly, 132 Herbert Avenue, Mayor Heymann advised that Joe Luppino would remain the Borough's Chief Financial Officer. Mr. Kelly read from the Minutes of the Regular Meeting of November 24, 2008 relative to an article in the Record on the Audit. and Mayor Heymann advised that the Borough Auditor reviews the system and provides remedies to upgrade and improve same.

Steve Isaacson, 97 Columbus Avenue, noted that 7 of the 8 items on the list of recommendations are repeat offenders from previous years. He expressed concern about item number 6 relative to the Recreation Commission internal accounting controls. He said he has repeatedly requested an accounting of the Open Space funds and the Recreation Commission receivables and expenditures and he has only received a synopsis of same. Mayor Heymann said that money is not being wasted but is being spent the way the majority in Closter wish it to be spent. When it comes to Recreation Commission audit comments, there is a great deal of improvement in the management of their funds.

Hugh Johnson, 107 Demarest Avenue, referred to the pavilion construction by two out of area firms at a cost of \$35,000 when local contractors and volunteers could have accomplished same at a lesser cost. Mayor Heymann said that the Department of Public Works felt it was beyond their capability to construct the Pavilion and the manufacturer of the Pavilion recommended the contractor in order to maintain the guaranty.

Motion of approval 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 and Amitai.

At this time, Borough Administrator introduced Mike Sartori who will be serving as Construction Official for the next (three) months.

23 ANY OTHER MATTER WHICH MAY PROPERLY COME BEFORE THE GOVERNING BODY

Michael Kafer, 261 Parsells Lane, expressed concern about the Borough's revenue noting that he could not locate the COPSMORE grant in the budget and cited the minutes of the meeting of August 12, 2009. Mayor Heymann said that the COPSMORE grant was not budgeted for and was only anticipated under salaries not under revenue. The salary line was lowered by the amount that we anticipated getting from the COPSMORE grant. We did not get the grant so we are shy in the salary line and Borough Administrator said the amount was \$76,000. Mr. Kafer questioned the \$212,434 due from General Capital Fund and Councilman Kashwick said that this is generally an operational expense that was paid out of the operating budget that should have been charged to a capital expense. Mr. Kafer said that these unused capital funds should be used to reduce debt and liability. Mayor Heymann invited him to meet with her to review the documentation relative to the Budget.

Mr. Johnson, 107 Demarest Avenue, asked if the Finance Committee was aware of this matter and Councilman Kashwick responded in the affirmative as did Councilman Glidden.

Mayor Heymann asked for a motion to recess the Regular Meeting to go into the Work Session at 8:50 p.m.

Motion to recess the Regular Meeting at 8:50 p.m. was made by Councilman Glidden

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seconded by Councilman Barad and declared unanimously by Mayor Heymann.

Mayor Heymann resumed the Regular Meeting at 9:58 p.m.

The following motion 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 and Amitai:

- 23a. MOTION APPROVING SEWER CONNECTION OF ALPINE RESIDENT S. SASOUNESS SUBJECT TO POSTING OF A 2-YEAR MAINTENANCE BOND BASED ON THE DIMENSIONS OF THE SCOPE OF WORK TO BE OVERSEEN BY THE BOROUGH ENGINEER – RESOLUTION TO BE PREPARED BY BOROUGH ATTORNEY!

The following motion was made by Councilman Barad, seconded by Councilman Glidden and declared carried by Mayor Heymann upon the affirmative vote of Councilpersons Glidden, Hennessey, Kashwick, Barad and Amitai:

- 23b. MOTION AUTHORIZING THE BOROUGH ATTORNEY TO PREPARE BID SPECIFICATIONS RELATIVE TO 28 FOURTH STREET WITH A MINIMUM BID OF \$6,000.00

Relative to the cemetery, Councilman Hennessey advised that the trees that were removed were replaced with slow growing pines that would get no higher than 4' and he suggested that 4 dogwood trees be planted. Councilman Kashwick referred to the barberries that had been planted and Mayor Heymann advised that same were an invasive plant. It was the consensus of the Council that the barberries be removed and Councilman Barad suggested that forsythia be planted. Mayor Heymann advised that the property owner violated a number of ordinances and she commended the Council for attempting to work out the problem but she supported the issuance of summonses and fines. She said that a permit was not issued for the work that had been done; and Paul Demarest, who was in the audience, said he would provide the information to the Building Department.

At this time, Mayor Heymann passed around invitations to several 9/11 Memorial Services and she invited all to attend the Closter 9/11 Service at 8:30 a.m. on September 11<sup>th</sup>.

Mayor Heymann expressed her deepest sympathy to Carole Dacey and her family on the untimely death of her 21-year old granddaughter (Dawnielle Ross) who was killed in a motorcycle accident over the weekend.

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

Motion approving the following Resolution at 10:05 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 and Amitai:

- 24a. 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 employees; and that the items under discussion in the closed meeting would be disclosed to the public at the conclusion of the contract negotiations, litigation and matter which should be within 8 weeks.

Mayor Heymann resumed the Regular Meeting at 10:20 p.m.

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25. ADJOURN

Motion to adjourn the Regular Meeting at 10:20 p.m. was made by Councilman Kashwick, seconded by Councilman Glidden and declared unanimously carried by Mayor Heymann.

Provided to the Mayor and Council  
on September 17, 2009 for approval  
at the Regular Meeting to be held  
September 23, 2009

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Loretta Castano, RMC  
Borough Clerk

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

Approved at the Regular Meeting held September 23, 2009  
Consent Agenda Item No. 19a.

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Mayor Heymann called the meeting to order at 9:03 p.m.

1. ROLL CALL

The following persons were present:

Mayor Sophie Heymann  
Councilpersons John C. Glidden, Jr., John Kashwick, David Barad,  
and Victoria Amitai  
Borough Administrator, Quentin Wiest  
Borough Attorney, Edward T. Rogan  
Borough Clerk, Loretta Castano  
Borough Engineer, Nick DeNicola  
Chief of Police, David Berrian

The following persons were absent:

Councilwoman Cynthia Tutoli

2. PROVISIONS OF OPEN PUBLIC MEETINGS ACT

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

3. PROFESSIONAL REPORTS

A. BOROUGH ATTORNEY

1) REPORT – Borough Attorney reported on the following matters:

a. Update on Tax Appeals – County judgments have come out and all were affirmed. The residents have 45 days from the day they receive the judgment to appeal the tax court decision if they so choose. Currently we have (6) commercial 2009 appeals, (1) residential in '09 left, and (8) appeals pending from '07 and '08 which are mainly Mr. Rosenblum's appeals against other property owners. We anticipate, given the market, that next year's appeals will be more voluminous; but compared to other municipalities, to have under 10 at this point in the year is excellent. Part of that is because we did the reassessment; and our numbers are not that far off which puts residents into a position where they don't have comps to dispute it because the bulk of them went down approximately 10-15%.

In response to Councilman Barad's question, Mr. Rogan explained that affirmed means a resident filed with the County Board as opposed to Tax Court. Depending on the value of your house, you can either go directly to the Tax Court, commercial typically can go directly to the Tax Court, or you have the option to go to the County Board, which is like an administrative hearing held at the County building. The hearing is heard by a commissioner, who listens and looks at any appraisals the homeowner may have, listens to our Assessor, Angela (Mattiace), and our office at the hearing and then affirms, at least in this case, the bulk of them were affirmed, meaning that whatever our assessment was, the County agreed with. If the homeowner does not agree with that decision, they have 45 days to go to the Tax Court which is a more involved process. Typically, you do need a lawyer and it is a longer period of time.

The vast majority of them were affirmed and a few were settled that day by Angela

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(Mattiace). Typically the ones that are recommended for settlement are errors in something, like an easement or something that was overlooked; and when it is looked over again, it was determined to be a mistake. Mayor Heymann added that all of the appeals come before the Mayor and Council as part of the Agenda and we pass them. Dr. Barad said this is an aggregate so it is more informative. He asked for clarification that we will know in a month and a half how many will go to Tax Court and how long the process would take; and the Borough Attorney confirmed and advised it could take 8 months to a year.

b. Borough Attorney asked for updated direction from the Council regarding 28 Fourth Street which was on the Agenda tonight, just as an informational issue. He believes they are appearing in front of the Zoning Board of Adjustment at this point for something else; and the Mayor clarified it was the Planning Board because they need a subdivision. This is a property where the new owner, unbeknownst to that owner, was discovered to have a fire place and other impediments on Borough property. The decision by the Mayor and Council was to sell that property, a small strip of land rather than have an encumbrance going down. In order to sell that land, we need to have a subdivision between the bulk of the Borough property that adjoins her property, and the small strip that she would acquire. Mr. Rogan asked if at this point we were in a position to advertise, because some time ago we had a Resolution to advertise for a certain minimum bid. Mayor Heymann asked if, when the Planning Board authorizes that subdivision, then he could go ahead with that. He advised that we can do it either way. If we do it now, they could appear before the Board if they were the high bidder as a contract purchaser, which would be better. He clarified that he is asking whether the Mayor and Council wants to consider proceeding along those lines, and when the meeting goes back into regular session, they could authorize his office to prepare a bid packet for a minimum bid of \$6,000 for that small strip of property. That way, by the time they go before the Planning Board, they will be a contract purchaser. In response to Councilwoman Amitai's question, he explained that they were going to do it but they stopped it. He thinks that if they are considering going ahead with it at this time, they should renew it. Should it be renewed again, it should go out to public bid for anyone with a minimum bid price of \$6,000. If they are the bidders, they can go before the Planning Board as a contract purchaser, if they are not the bidders, they shouldn't go through the application. There would be no reason to go through with the subdivision if they weren't going to get it.

c. At this time he asked for additional responses to the Susan Drive inquiry he sent. He received one reply and he asked for direction so we know where to go in regards to cutting down of plants and bushes over there.

d. He requested a Closed Session to discuss the acquisition of property and a matter of personnel.

**B. BOROUGH ENGINEER**

**1) STATUS REPORT RE ROAD IMPROVEMENT PROGRAM**

(Bid Awarded to Rockborn Trucking & Excavation, Inc.

RM 5/13/09/\$1,494,692.50) – The Borough Engineer reported that the Road Program is winding down. They did present a change order tonight; and there will be one final change order to rectify the quantities. As he mentioned, they are about \$50,000 under the contract amount. The project is near completion and should be wrapped up, hopefully, by mid-October as far as the financial goes. Right now they are balancing out quantities. Mayor Heymann asked about the grassy strips on the punch list because nothing had been done yet; and

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he advised that is part of the reason they aren't done yet. The Pearle Road and Willis Drive grass strips were done, there are some that aren't done but most of them were completed.

2) STATUS REPORT RE 2009 SAFE STREETS TO SCHOOL SIDEWALK PROJECT – NJDOT \$275,000 (not to exceed \$52,100) RM 6/24/09 – This project is funded by the federal government as a grant in the amount of \$270,000 that is currently in the design phase and will probably go out to bid in early Spring or late Winter of 2010.

3) REPORT – Regarding the sewer connection from Alpine, this is a sewer hook-up that would take property in Alpine and bring a sewer lateral across Anderson Avenue to Giletta Court. The reason it is on the agenda is because Giletta Court was recently paved and the Borough has an ordinance about not opening a street that has been paved in less than 3 years. The applicants submitted a letter stating that they would make remediations for that cut in the road, mainly proper compacting and topping it off with infrared to reseal the road. It is the Mayor and Council's decision. If done properly, it will work. The Borough Engineer would have to inspect it, which they were going to do anyway, but it is up to the Council to allow that or not. The applicant has a permit from the DEP and BCUA which the Borough endorsed a year or two ago. Mr. Kashwick brought up that in Mr. Sasouness' letter he informed they applied two years ago and they were told their application was lost in the Borough's office. Mr. DeNicola said he is not aware of what happened at the Borough; and Mayor Heymann said she is not sure the Borough is at fault. She believes it may have been one of the agencies in the State or the County because there had to be a lot of permits obtained to do this, and the Borough was only a small part of it. She asked Mr. Sasouness if he had anything he would like to add.

Mr. Sasouness reiterated that they had applied about two years ago and the application was lost in the Borough's office. They had to dig it out; and every time they came in, they were told it was being looked for. In the meantime, the street was paved and that's where they are right now. Mr. DeNicola verified that the Borough had a problem getting the application, it was somewhere misplaced. Not only does the Borough sign off on it, Alpine signs off on it and then the BCUA signs off on it and then it goes to the DEP for a 90-day review process. In response to Dr. Barad he clarified that it is one physical application that everyone has to review and sign off on. Mayor Heymann explained that Closter residents and utilities are warned that they cannot break into the street. Mr. Sasouness is an Alpine resident, so he did not receive that notification. Giletta Court is off Anderson Avenue between Alpine Drive and Parsells Lane.

Jack Kelly asked where our main is, if it was on Anderson Avenue. Mr. DeNicola clarified that it is on Giletta Court about 100 feet from the intersection of Anderson Avenue. He said the applicant has engineering plans of it which the DEP and BCUA signed off on, and he and Billy (Dahle) had reviewed and signed off on. Mr. Sasouness confirmed that everyone has signed off on it; and as a result of losing the application, the road was paved. Borough Engineer clarified that this is a new sewer lateral for an existing home as per the agreement between Alpine and Closter in the late 80's, early 90's. It is up to the Council if they want to approve it or not.

Mayor Heymann said the issue is that work has to be done so that it is totally sealed appropriately with infrared sealing, and there should be some sort of a performance bond in case it doesn't work. Mr. DeNicola advised the road was resurfaced about a month or six weeks ago. Councilwoman Amitai asked what the alternative is if we say no. He said the applicant would

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have to wait 3 years at least. He believes the permit is good for 5 years. It is a Council decision. Mr. Sasouness expressed his dismay that they are not asking to do anything illegal and they are following all of the necessary procedures, and one day pavement just showed up. Mr. DeNicola offered his personal opinion that from a construction standpoint, if the applicant is willing to post a performance bond for 2 years, as any damage that would occur would be within 2 years, and they infrared the road, it would pretty much make up for it because the bond would cover any remediation work should there be a problem. It is up to the Council at this point. He explained to Ms. Amitai that although they do not do the work, they do oversee the work to make sure it is done properly, but they do not guarantee the work, that is what the bond would be for. In this case it is a private homeowner so it does not go out to bid and he can hire whatever contractor he wants.

Councilman Kashwick asked what the length of the road cut would be; and Borough Engineer advised it would be about 100 feet to Giletta Court so it will be 25 feet one way or the other. The applicant is on the other side of Anderson Avenue so they will cut through a manhole and continue down Anderson Avenue into Giletta Court. Mr. DeNicola reiterated that all necessary parties reviewed the plans. Councilman Glidden expressed his opinion that upon return to regular session they should approve the request as long as they have the necessary approvals and they get the proper bond. Mr. Sasouness asked for clarification of the bond in discussion and Mr. DeNicola explained the Borough will request a two-year maintenance bond to make sure the contractor does a proper job, if there is settlement because of poor compaction or whatever else could happen due to poor construction, the Borough would have recourse to get that fixed. Mr. Sasouness asked how come other people that have hooked up from Alpine have not been asked for the same thing; and he advised it was because it is a newly paved road and, technically, per a Borough ordinance, it is not permitted. In order for the Council to give approval they need some kind of a guarantee that it will be done properly; and in this case that guarantee would be the bond.

Mr. Sasouness said it is only about 15 feet or 20 feet into Giletta Court. Borough Engineer clarified that the bond would be based on the cost of the construction. If the construction costs \$100.00, the bond would be based on \$100.00. If it costs \$100,000, it would be based on \$100,000. Mr. Sasouness argued that the mistake was from the Borough's office losing the application; and questioned if they want to take any responsibility for that mistake. Mr. DeNicola responded that he understands what the problem was but it was not his office that made the mistake. Mr. Sasouness asked why he should be responsible for that mistake. Mayor Heymann explained to him that the letter dropped off for the Mayor and Council already had a two-year performance bond guarantee in it. Mr. Rogan stated that Mr. Sasouness is asking for a favor; and the Borough is saying they will do this, but they need to protect themselves to make sure they aren't out of pocket in the event the road needs to be fixed. Borough Engineer added that 9 times out of 10 the contractor knows what they are doing and there is no problem, so the bond doesn't usually become an issue.

Councilwoman Amitai asked Mr. Sasouness who the contractor is and at the moment he could only remember his first name is Frank (Mauro). He said the contractor is well known and has been working with DiStaulo.

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At this time the Borough Engineer questioned the status of bridge for the Cross-Boro Trail on the Water Company property because he did not want the project to get lost in the mix while it was on hold. He asked Mr. Wiest if the agreement was being done this year or was the project going to be pushed back for the time being. He answered that the terms for the proposed agreement from United Water have been circulated, and that is where it stands. Mayor Heymann added that the Environmental Commission had come back with a few things and Mr. Wiest advised that the terms need to be finalized before they can go ahead with that.

4. REPORTS

A. BOROUGH ADMINISTRATOR

1) STATUS REPORT RE 2009 MUNICIPAL BUDGET – Mr. Wiest expressed his appreciation for the appointment of Mr. Mariniello. He has distributed updated budget status reports this evening and some additional credits that need to be moved to certain lines but he is sure Mr. Mariniello will be of great assistance both to himself and the Finance Office in finishing out the year and also preparing for next year's Budget. The latest report is in front of them tonight; and there are some areas of concern in the Police Department, where there are some items of credit coming back to the Department which should improve that; but as discussed earlier, the grant missed is hurting us.

2) STATUS REPORT RE BOROUGH WEBSITE – He reported we are moving ahead to change contact management platform as had been discussed at the prior meeting. He doesn't feel there is anything further that needs to be done right now except work with Kevin Whitney and prepare for the transition at the beginning of 2010. We need to prepare the content of our website for the new platform. During this period, he believes the new provider has discussed with Kevin Whitney that there could be a period of time where we won't necessarily be charged, but would allow us to get situated on the new platform..

3) STATUS REPORT RE FOLLOW UP WITH FILE BANK FOR STORAGE OF RECORDS (Requested by John DiStefano at WS 10/6/08) Mr. Wiest advised he has nothing further to report on this so it can be removed from his list. He expressed his pleasure that the files all came back and have been well labeled and organized in the basement.

4) REPORT RE BID OPENING TO BE HELD 9/17/09 @ 11:30 A.M. FOR PURCHASE OF TREES FOR PLANTING AND RELATED ACTIVITIES  
With regard to the bid opening scheduled for next week, it is being funded by the Shade Tree Commission. Mayor Heymann asked if he had received any inquiries as she has gotten three and he responded he received two today. He feels that it speaks to the difference between advertising for a formal bid, while it is a more cumbersome process for us to execute, it does circulate your needs to a much wider audience. In this market, people are very interested in finding what bids are out there; and we certainly have been receiving a lot of calls from people who seem to be qualified bidders, so he feels there will be some aggressive bidding. Hopefully, he will have an award to report on at the next meeting.

5) REPORT – Mr. Wiest advised the above concluded his report.

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At this time, Jack Kelly questioned what was going on with the grant status; and Mr. Wiest responded that he was referring to the COPS MORE grant that was mentioned at the last meeting. That grant, which we didn't receive this year, was expected to help us fund a portion of the police salaries; and we will have to deal with it. Mayor Heymann advised Mr. Kelly that there is a public session to discuss these issues after the work session is over.

**B. BOROUGH CLERK**

1) STATUS REPORT RE 2009 APPOINTMENTS - Borough Clerk reported we are maintaining the appointments on the agenda and, regretfully, we have received a resignation from David Scholz (Chairman of Environmental Commission) and she should be placing something on the Regular Meeting Agenda for the first meeting in October.

2) STATUS REPORT RE 2009 OATHS OF OFFICE – She can provide a report to the Mayor and Council for a list of those persons who have not returned their Oaths of Office accepting their appointments.

3) STATUS REPORT RE 2009 LICENSES – We still have 2 Liquor Licenses that have not been renewed, although the term is usually from the beginning of July of one year to the end of June of another year. At present, we have KLIP, LLC which is trading as Assembly East and they are maintaining a dialogue with the Division of Taxation who had seized their liquor license. They are working something out with Taxation so they can operate under an Ad Interim Permit which is why it is being carried from one meeting to the next. There is a Special Ruling that hasn't been completed for Modern Bar, LLC, which is the license that was previously located at the Closter Rec. on Durie Avenue. Both licenses are pocketed at this time. We have a Person to Person transfer in process for 208 Piermont Road. She spoke to the applicant's attorney today and they are trying to finalize some of the missing items from the 12-page license application. She is still waiting for reports from the Fire Official and the Construction Official. Although she sees signs that it will be open soon, she does not see much work going on there. She had asked the attorney for a photo of the outside and he said he wanted to hold off on it until the work is completed.

4) STATUS REPORT RE 2009 MEETING DATES – We will start sending out notices to Borough Boards and Commissions in October in preparation for 2010.

5) REPORT RE GENERAL ELECTION - She submitted the Ballot Question to County Clerk, Elections Supervisor (Marlene Verrastro) which will be ready for the 11/3/09 election date. As far as the General Election Copy prepared by the Borough Clerk, Ms. Castano informed it has to be submitted to the County Clerk's Office, Election Division, on 9/16/09 which is the last day a party affiliated candidate may withdraw. A drawing was held 8/10/09 to determine ballot column position for 11/3/09: Column 1 - Democrat; Column 2 - Republican. At the present time, we have incumbents for the Republican Party; Cynthia Tutoli and Thomas Hennessey. For the Democrats we have successful write-ins - Linda Albelli and Michael J. Kelly. She will provide more information as it is received.

6) REPORT – Other

a. OPRA - Mr. Wiest and the Borough Clerk attended a Seminar in Trenton and she is sure he had hoped we could streamline what we are doing at the present time. It has become quite clear that the Government Records Council is very supportive of open and transparent government and availability of records, and our reporters who are very happy to have this. She reiterated that requests must be made for specific records, not just a general request.

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b. Codification – General Code was very generous in providing the Ordinances that we had adopted and not yet codified on the web site. There are currently 28 on our website now. We have 14 that have been adopted since those have been placed on the website. We cannot continue to maintain it on the website without codifying as it is becoming too cumbersome. At this point in time, there are a total of 42 ordinances that she will send to General Code with a request for an estimate for a new Supplement. It has been approximately two years since her office made such a request; and with no objections, she will proceed. Mayor Heymann informed the Borough Clerk that there is \$5,500 to spend on that right now. Ms. Castano asked our Borough Administrator to inform Earl Babb about our budget to find out what can be done.

c. League Conference – she is processing the requisitions for the reservations and will be sending around the pre-registration to be completed and returned to her for processing.

C. CHIEF OF POLICE

- 1) REPORT – No report

At this time, Councilman Glidden commented on the activities of the past weekend. He thanked the Police Department, Fire Department and Recreation Commission who did an excellent job. It was really first class and the fireworks were great. The 4-K run had second highest attendance in terms of entrants; and he thinks the entire weekend was extremely well done. Mayor Heymann added that she got a lot of compliments on the fireworks and she passed that on to Jim Oettinger. It was 42 minutes long.

D. MAYOR

- 1) STATUS REPORT RE FOLLOWING GRANT APPLICATIONS:

- a. GRANTS FILED

Mayor Heymann reported that she has filed for the Sustainable New Jersey Grant for the maximum amount of \$300,000 and we will be lucky to get any part of it. (RM 5/13/09 – Wal-Mart)

- b. GRANTS AWARDED – The Mayor reported that she had no updates regarding the Grants Awarded at this time.

1. BERGEN COUNTY OPEN SPACE, RECREATION, FARMLAND & HISTORIC PRESERVATION TRUST FUND; DUE 7/7/06; FILED BY COUNCILMAN KASHWICK - 50% LOCAL MATCH REQUIRED?- ACQUISITION OF FLAMM PROPERTY END OF RUCKMAN ROAD/HOMANS AVENUE- \$500,000 AWARDED 7/11/07 FOR BLOCK 1308, LOTS 3 AND 4, 37 HOMANS AVENUE (8.M.L.7/26/07)
2. BERGEN COUNTY OPEN SPACE TRUST FUND - 2004 FUNDING ROUND FOR MUNICIPAL PARK IMPROVEMENT AND LAND ACQUISITION PROGRAM (50% local match); APPLICATION DEADLINE: 10/29/04 (8.M.L.8/26/04) (~~\$190,000.00~~ \$120,000.00 for Recreational Trails Program/RM10/27/04 - \$120,000 Recommended Award - County Public

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Hearing 5/26/05)

3. NATIONAL TRAILS RECREATION PROGRAM - \$25,000 (local match of \$10,000 required) filed 12/15/05 - \$6,500/Match \$2,800
  4. SUPER VALUE, INC./PUBLIC ENTITY GRANT - \$6,600.00 awarded for Hazardous Discharge Site Remediation – 121 Schraalenburgh Road, Block 502 Lot 3 (14. M.L. 7/3/08)
  5. CERTIFIED LOCAL GOVERNMENT GRANT OF \$20,000 FOR HISTORIC PRESERVATION PLAN ELEMENT (7. M.L. 7/30/09)
  6. COMMUNITY DEVELOPMENT BLOCK GRANT - \$7,000.00 Grant for Senior Center Security System (7. M.L. 6/4/09)
- c. GRANTS TO BE FILED  
(None at this time)

2) REPORT – Mayor Heymann reported on the following:

a. She announced that on the Environmental Commission, in order to have a space to include Mark Maddaloni as the liaison from the Planning Board, Philip Gotthelf resigned his official position (Member) and became an Alternate. She reminded that these are Mayoral appointments that did not need to be seconded by the Council but she wanted to make them aware of this.

b. On 9/13/09 the Vaswani Center is having a major event which they have on an annual basis; and this year they wanted the entire Borough to be invited to learn and share with them about what they are doing. The carnival will be held right in the middle of town on Sunday from noon to 6 p.m. At this time she handed out a copy of the invitation.

c. In April 2010 we will be celebrating anniversary of first establishment of a property in Closter. A large amount of work has already been done and plans have been made. She wrote a Press Release which was published. The newspapers have the information and now we are reaching as many people in the community as possible through organizations or individuals to participate.

d. The Mayor handed out a suggestion regarding the handling of trees that have to be cut down and planted. She asked the Council to think about this because it is an issue that rears its head all the time and it is a matter of trying to balance the needs of the Borough and trees and the requirements of our residents and our finances because it is very expensive to cut down trees. It is more expensive to cut them down than to maintain them. She wanted to make it clear to everyone where we are, the Environmental and Shade Tree Commissions included. She explained that in this particular memo we are talking only about shade trees. The memo was intended to make it clear to both the Shade Tree Commission and the residents as to what the Borough can and can not do, and to try to differentiate between the pruning of the trees and the removing of dead or dying trees. It was called to her attention that they need to add an ordinance that would, under (Chapter) 181, the tree ordinance that would signify that when shade trees are to be cut, the Shade Tree Commission has to look at it even if it is a single tree, to authorize it. Dr. Barad clarified that Chapter 181 is the Environmental Commission tree ordinance and Chapter 59 is the Shade Tree Ordinance. Mayor Heymann said Chapter 181 includes the requirements for cutting trees down, and the way it is worded now it would allow even a shade tree to be cut down under those conditions, it doesn't differentiate between shade trees and regular trees. He expressed his understanding that we will need to clarify and refer to Code

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Chapter 59 in Code Chapter 181. Councilman Hennessey expressed his concern that this could be confusing as the first paragraph mentions removal of trees within 10 feet of the curb line or trees that were planted after 2007. Mayor Heymann clarified that the reason for that is because if the Borough planted the trees, then reasonably the Borough would have to take care of those trees. In response to Mr. Hennessey she stated that a mature tree 50 years old would probably not have been planted by the Borough and, therefore, would not be the responsibility of the Borough. He read from the current wording that it is not specified in the current ordinance. She reiterated that this was the issue they were trying to explain. This is a budgetary issue as much as anything else. Most of the trees planted some time back on the west side of town within 10 feet are older trees, and the right of way in the Borough is almost always 10 feet. On the east side, the right of way can be as much as 20 and more feet, so that essentially, the trees are planted further in, in some cases; and we simply cannot afford to take care of them. Dr. Barad reminded the Mayor that this was a suggestion, not something that was being voted on now. She stated that it was not an ordinance but it is a policy. Borough Attorney would prefer it to be in an ordinance. Mr. Hennessey asked what would happen if the Shade Tree Commission planted a tree 15 feet in from the property line, in 2008, would they take it down. Dr. Barad advised they would but only if it was dead. Mayor Heymann said that if something happened to that tree, we would take responsibility for it. Mr. Hennessey asked if that was irregardless of where it was placed and she affirmed.

Dr. Barad reminded that this is what we have been doing for the past few years under her administration. In earlier times and earlier recent times we were doing it other ways. This is a policy that her office has made. As the Shade Tree ordinance is currently written modeled on State Statute, Shade Trees are the responsibility, or potential responsibility of the owner; and it is the town policy to give that. The towns are not statutorily required to do that. Mayor Heymann noted that according to the statute he is referring to, the Borough has the authority to charge the residents for any work that is done including pruning. He responded that they had chosen not to do that in recent years to the extent we could afford it. Alternately, if we need to maintain the trees, we might need to go back in that direction. We need to maintain the trees; they need to be safely maintained. Mayor Heymann agreed and pointed out that was why we were more generous with the pruning than the cutting down. Councilwoman Amitai asked if a professional from outside would prune the trees on a regular basis, and the Mayor clarified we have been doing that for many years and will continue to do so. The issue came up specifically this time because we have the 10 foot rule and Arrow questioned when they were going down the street; and if they were going through the 10 foot limit they would be skipping three-quarters of the trees that need help and that didn't make sense. Ms. Amitai asked if we don't maintain and prune the trees, does this solidify the case against the Borough. The Mayor responded no because the Borough is going out of its way to help. The Shade Tree Commission is mandated by State Statute to take care of all maintenance of trees. We do not have a responsibility for them because the trees are owned by the property owners. That is what she wanted clarified. Ms. Amitai questioned if we needed to obtain permission from the property owners; and the Borough Attorney clarified that typically they are in the Borough right of way. Mayor Heymann added that per the State Statute, they had the right to go onto the resident's property to maintain the trees. Dr. Barad said that we also have the right to inform the resident that they need to do it, the same as you would for a sidewalk. Mayor Heymann advised we will pursue this as it really is an

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important issue.

e. COAH has accepted our draft for the COAH third round. She has been told that virtually every other community in New Jersey was being sued by the Fair Housing Council. Our draft of the proposal is set with COAH. They will ask for refining in the future but for now we are set with COAH protection. Unfortunately, there is a new Court decision that negates all of the COAH protection. If it isn't changed by another edict or legislative piece the entire COAH piece is negated because the towns are not protected. Mr. Rogan acknowledged it did come out recently but his understanding is that it does not eliminate one's right to bring that up as a reason for approving the affordable housing. It's not an automatic builder's remedy.

At this time Mayor Heymann explained this information concluded her report.

5. OLD BUSINESS

Councilman Kashwick informed he received another call from Ruth McCaffrey regarding the horse and inquired what else he should be advising her. Mayor Heymann noted she has been told the Board of Health has rules that need to be followed. Mr. Rogan advised it needs to be reviewed by the Board of Health in addition to the insurance issue. He believes there is a Board of Health ordinance that prohibits it. They need to discuss it at their next meeting.

6. NEW BUSINESS

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

8. OPEN MEETING TO THE PUBLIC

Jack Kelly, 132 Herbert Avenue asked about the trees. He questioned if the Council was going to bring this issue to the public and have a debate on it. He expressed his belief that they couldn't just walk onto someone's property and tell them their tree has to be trimmed or cut down. Mayor Heymann pointed out that the State law gives them the right to do so. He asked who makes the determination and she advised the entire Shade Tree Commission takes an interest in that. In response to his question, she clarified that the trees within the 10 foot zone are not the responsibility of the Borough according to the law, but they choose to help out the homeowners who pay heavy real estate taxes as much as we can. Mr. Kashwick reported that at this time we have the budgetary ability to maintain the trees. In the future, we may not have that ability. He wanted to know if before anything was passed, the public would have the opportunity to discuss it. Dr. Barad explained that nothing was being passed; and they would follow the process which involves the public. Mr. Kelly noted he had seen a tree on his street taken down and just figured his trees would be cut as well because they are in danger. Dr. Barad clarified that that was completed under the current ordinance which allows all of that and has for years.

Donald Schmidt, 162 Closter Dock Road, referred to COAH. He questioned when was the last time the State list was updated. Mayor Heymann responded that it was just updated and he stated he just received one in the mail and he looked at some of the owners, and they are rental condos and so forth that are mentioned and he feels it needs to be updated. She advised she went to the Tax Office and checked it out herself. She invited Mr. Schmidt to come to her office and help clear up what he thinks the errors are. He said he feels the State is under misunderstanding as to what some of the dwelling situations are and advised he will come in to help her.

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Hugh Johnson, 107 Demarest Avenue questioned for what purpose the extension cord was plugged in. He stated there is a pile of rubble including pictures, awards and plaques and asked when the painting of the paneling was expected to be completed so those things could go back up on the wall. Mayor Heymann reported they had hoped it would have been done over the summer and they weren't fortunate enough to get that done.

He noted there is a furrow in the Borough parking lot and about two weeks ago Bill Dahle said that it would be corrected. It is an impediment and it is dangerous. He clarified it is the entrance close to the back door off Lewis Street; and the Borough Engineer said he would look into it with Bill Dahle.

Mr. Johnson then expressed his understanding there was some Court action with Demaree and inquired if that was going to be discussed in Closed Session regarding the signs. Mr. Rogan informed he was not aware of any such action and they had not been as of yesterday.

Regarding the Closter (Plaza) parking lot, Property Maintenance Official, Jim Whitney went down and saw the parking lot and decided it needed corrective action. Although he realizes he is not a town official, Mr. Johnson said he spoke to the attorney for the applicant after the last Planning Board meeting. He encouraged him to drive in his Mercedes through the parking lot and see how his undercarriage held up. He said the attorney would take a look at it, and reminded that since it is private property the Police cannot do anything and the Borough cannot do anything. He inquired as to whether anyone had heard anything from the attorney regarding the manholes. Ms. Amitai questioned who the attorney was, was it Mr. Daines. He advised he spoke to the attorney for the Iranis, the applicant. Mr. Rogan clarified that Whole Foods is not the applicant, the Iranis are.

He mentioned the second or third step at Borough Hall is cracked and requested someone look at it.

Addressing Councilwoman Amitai, (Liaison to the) Closter Improvement Commission, he mentioned he wanted to collect funds from citizens to restore the clock. He wanted to know if the CIC could be of assistance for this. He said he believes money was collected at one point for the same purpose in the past and suggested she look into it. She advised she will look into same and as far as she is aware Mr. Watkins was kind enough to take care of the clock for \$500.00 a year. Mr. Johnson reminded there is a maintenance contract with Verden for what he believes is \$500.00 a year, but the clock really needs to be overhauled, painted, striped with the gold trim like the clocks in every other town and he feels it looks like a disgrace. She advised she will bring it up at the next CIC meeting, but until now it has not been their responsibility. She and the Mayor thanked him for his offer of help.

Mr. Johnson mentioned a restaurant from an outside town is sponsoring the Andiamo run and he has seen 6 signs on Borough property on Schraalenburgh Road, Closter Dock Road and Knickerbocker Road. The Mayor advised there is something that can be done about it and it will be looked into.

9. DISCUSSION OF PUBLIC COMMENTS, IF APPROPRIATE

CLOSTER MAYOR AND COUNCIL  
WORK SESSION NOTES – SEPTEMBER 9, 2009 - 7:30 P.M.

10. ADJOURNMENT

Motion to adjourn the Work Session at 9:36 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 September 17, 2009 for approval at the Regular Meeting to be held September 23, 2009.

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Loretta Castano, RMC  
Borough Clerk

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

Approved at the Regular Meeting held September 23, 2009  
Consent Agenda Item No. 19a.