

The regular May 6, 2009 meeting was called to order at 6:30 p.m. by Mayor Petillo in the Municipal Building, 111 River Styx Road, Hopatcong, NJ.

Mayor Petillo announced this meeting is held in accordance with the 1975 Open Public Meetings Act, NJSA 10:4-6 et seq., annual notice having been forwarded to the New Jersey Herald/New Jersey Sunday Herald, the Daily Record, The Star Ledger, and posted on the bulletin board maintained in the Municipal Building for public announcements.

ROLL CALL - Councilmembers present: Richard Bunce, Michael Francis, Marie Galate, Madeline McManus, Robert Modick & John Young. Others present: Attorney John Ursin, Acting Administrator John Eskilson & Clerk Lorraine E. Stark.

Councilman Francis moved resolution for executive session at 6:31 p.m., seconded by Galate. The vote was unanimous. Mayor Petillo reported matters to be discussed pertained to personnel & contract negotiations.

Continue open session at 7:38

MOMENT OF SILENT REFLECTION AND PLEDGE OF ALLEGIANCE

PUBLIC COMMENT: Meeting open to public for comments on items on the agenda for which no public discussion is provided. (Comments limited to 5 minutes). Bob Wineger said that he was present to address item B under New Business; conditions for liquor license at Northwood. Mr. Ursin revealed that the Zoning Board heard an application, and approved changes. The governing body is being asked to approve a resolution to modify the existing conditions on the liquor license, so that they conform to what was granted by the Zoning Board.

Resolution - #157-09 Approve Modification of Conditions on Liquor License #1912-33-016-009, Northwood Inn, as per Zoning Board of Adjustment, moved by Francis, seconded by Galate. The vote was unanimous.

Dan McCarthy member of the Lake Hopatcong Commission spoke about Bell Avenue drainage pipes being full of crud; used a camera on loan from Mt. Arlington to evaluate the water collection box. He encouraged the Borough to clean out the box before this debris goes into Lake Hopatcong. Regarding the lake level, he noted that the rain is helping, but the State is still releasing water downstream, therefore the lake water level is below where it should be at this time. Councilperson Bunce pointed out that low areas are compromising waterfowl and aquatic wildlife. Council President Galate expressed concern about the adverse affect the lake level was having on area businesses, not just those located on the lake property.

Mrs. Haines spoke about the garbage resolution, adopted at the 15 April meeting. Mr. Ursin explained that he provided the four individuals who voted in favor of the resolution with a written certification so that they verify that they understood the implications on what they were voting in favor of. Councilwoman McManus stated that she was not happy with Mr. Ursin's interpretation of whether or not the resolution constituted the awarding of the garbage bid; Mr. Ursin's view is that the bid was awarded.

Mrs. Haines asked Mayor Petillo to resign, Councilmember Francis to resign, Councilmember Young to resign & Councilmember Modick to resign.

Alex Martinez said that there was no paperwork with the agenda for the 15<sup>th</sup> April meeting, and that this Council went against the will of the people; voters do not have short-term memories, asked them to change their minds.

Louise Bagby reported that she heard what Mr. Modick said, and he said to privatize garbage. She also said that there is not a final budget, and a contract to Suburban could not be awarded until a budget was adopted. Mr. Ursin commented that it is wrong, contracts can be awarded before a budget is approved; Chief Financial Officer has certified that funds are available for this contract.

Greg Mason asked if minutes were verbatim. The answer is no, they are not. He reported that his sons Patrick & Christopher work for the DPW & Water Departments, and he did not want anyone retaliating against them. Mr. Mason read a statement, which is heretofore attached to the minutes. Mara Modes resides at 3 Ithanell Road and wanted to poll the Councilmembers regarding the reason why several of them did not speak during the April 15 meeting. Mr. Ursin remarked that Councilmembers are free to respond if they wish. Councilman Young said that he voted the way he did because he felt that the numbers he was given were correct, and would save the Borough money over time. He was elected to represent 16,000 residents, and he voted what he thinks was in the best interest of the residents. He said that he did not believe that the people who spoke at the meeting were an accurate representation of the Hopatcong citizens. Councilperson Young commented that he did not speak, because the people at the meeting did not want to hear what he had to say; he believes that the majority of residents do not want to keep garbage collection. Mayor Petillo stated that there are two issues, the CAP and financial; by going with a private contractor both are addressed. Ms. Modes said that she wanted numbers, and if they had numbers they might have understood why they made the decision to privatize.

Mrs. Haines questioned if there were new numbers. Mr. Eskilson reported that there are open issues, which are being addressed in the budget; he is working on the numbers in the budget. Currently, there are no new numbers to present at this time.

Councilman Modick remarked that he voted to represent the 16,000 people in Hopatcong, and to save some money.

Lynn Owens lived in town for 62 years, and she said that she doesn't think the governing body is listening to the people; her son-in-law lost his job.

Mayor Petillo expressed concern about 2010, and the need to position the Borough so that they would be successful, noted that we need to generate some relief in the budget by implementing savings in 2009.

Carolyn Lynch said that she was the Co-Chair for the Democratic Committee in this town and she did not attack Mayor Petillo or bring back the hatred. She thinks that figures should have been presented because it looks like they are hiding things.

Mary Takacs commented that whatever the people said at that meeting was from their hearts. She was at the meeting, and heard what Bob Modick said. Mrs. Takacs commented that this government is for the people, and wants them to listen to what is being said; they want to help. Mayor Petillo stated that she had to vote to break the tie vote by the Councilmembers; this was not something that was planned ahead of time. There are reasons why some things have not been done quickly or in a timely manner; one reason is not having a full-time administrator. The governing body did what was right because they did not have two years to wait before a decision was made.

Councilman Francis moved to close public comment period, seconded by Bunce. Those present voted affirmative.

**APPROVAL OF MINUTES:** Special budget meeting of March 5, 2009, minutes moved by Bunce, seconded by Young. All voted affirmative, except for an abstention by Modick. Regular/work meeting of April 15, 2009 minutes moved by Francis, seconded by Galate. Roll Call Vote: **YES** - Francis, Galate, Modick & Young. **NO** - Bunce & McManus. Authorize release of 2008 Executive minutes for January through April 2009 following attorney review.

#### **ADMINISTRATOR'S REPORT:**

Mr. Eskilson revealed that he was looking to introduce the budget on May 20<sup>th</sup>, and hoped to have the final numbers to them by next week. He also reported that last Friday, due to the economic situation, he eliminated the position of Purchasing Agent, and the part-time employee serving in that position was let go. Mr. Eskilson recommended that the Administrator be authorized to act as the purchasing agent for the Borough.

Resolution - #158-09 Appoint Borough Administrator Purchasing Agent, as per Code 33-5. General Duties & Powers, Article 1. Motioned by Bunce, seconded by Francis. The vote was unanimous.

#### **ENGINEER'S REPORT:**

Mr. Ruschke noted that back in March the Dupont/Bucknell area was identified as a project for the Infrastructure Trust Program; this area has problems with well & stream contamination, which was used for the grant justification. The State has awarded a 5 million dollar grant for this project: includes 0% loan money as well as trust loan funds at market rate. Mr. Ruschke was looking at a possible 415 sewer connections in this area, and recommended that a contractor be hired to perform some line drilling to verify the rock depth. He spoke about the present economy, which seems to favor a more competitive bidding process. He also suggested that a change in the policy regarding grinder pumps be reviewed as a cost reduction measure. Mr. Ruschke has solicited three quotes for line drilling from local contractors; Lakeside Construction was the lowest estimated at \$16,000. He also recommended the use of water & sewer employees to perform some of the survey work, thereby reducing the cost of this work. Mr. Ruschke was asking that money be authorized for the line drilling, pending CFO certification of funds available in existing ordinances. There is also a need to verify sewer allocation from the MSA, and what is dedicated for redevelopment. Councilman Bunce commented that there appears to be 160,000 to 170,000 gallons left per day, which means that it was unlikely that 400 homes could be added to the system; probably could connect 200 houses. Resolution #159-09 Authorize Line Drilling in an amount not to exceed \$16,000 to Lakeside Construction Co., and Professionals Engineer & Auditor pending certification from the CFO for preliminary work on Sewer Grant Project, moved by Bunce, seconded by Galate. Roll Call Vote: **YES** – Bunce, Galate, McManus, Modick, Young & Francis.

CONSENT AGENDA: All items with an (\*) are considered to be routine by the Members of the Borough Council and will be enacted on by one motion. There will be no separate discussion of these items unless a Council member so requests in which event the item will be removed from the general order of business and considered in its normal sequence on the agenda.

- A. #160-09 Approve Payment of Escrows\*
- B. #161-09 Approve Outside Lien Redemption Certificate #74-124 in the amount of \$44.75.\*
- C. #162-09 Approve Outside Lien Redemption Certificate #2003024 in the amount of \$1,128.21.\*
- D. #163-09 Approve Outside Lien Redemption Certificate #2006-2 in the amount of \$4,519.84.\*
- E. #164-09 Approve Outside Lien Redemption Certificate #2007-18 in the amount of \$45,658.51 plus premium in the amount of \$9,100.00.\*
- F. #165-09 Approve Outside Lien Redemption Certificate #2008-27 in the amount of \$8,433.40 plus premium in the amount of \$4,100.\*

- G. #166-09 Approve Outside Lien Redemption Certificate #2008-33 in the amount of \$12,882.00 plus premium in the amount of \$5,000.\*
- H. #167-09 Approve Outside Lien Redemption Certificate #2008-50 in the amount of \$2,375.21 plus premium in the amount of \$200.\*
- I. #168-09 Approve Cancellation & Refund of a portion of taxes for 4 properties due to State Tax Court Appeals Judgments for 2007 & 2008.\*
- J. #169-09 Approve Cancellation and Refund for two properties for 2009 due to Exempt Status.\*
- K. #170-09 Approve Cancellation and Refund for six properties for 2007 & 2008 due to State Tax Court Appeal Judgments.\*
- L. #171-09 Authorize Cancellation and Refund for B30608 L6.01 due to State Tax Court Appeal Judgment for 2008.\*
- M. #172-09 Authorize Shared Services with Sussex County for participation in the County's Employee Assistance Program.\*
- N. #173-09 Authorize Execution of 2009 Radio Communication Service Agreement with Byram Township.\*
- O. #174-09 Authorize Execution of 2009 Radio Communication Service Agreement with Stanhope Borough.\*
- P. #175-09 Approve 2009-10 Tow Licenses for 5 Companies.\*
- Q. #176-09 Approve Firemen: I. Irwin, Co. #4 & T. Baez, Co. #2.\*
- R. #177-09 Approve Cadet Fireman: David M. McGowan.\*
- S. #178-09 Approve Raffle License RA #11-2009 for an Off Premises 50/50 Raffle for Tinitas Health Foundation.\*
- T. #179-09 Approve Raffle License RA #12-2009 for an Off Premises 50/50 Raffle for St. Jude Church.\*
- U. #180-09 Declare May 2009 as Service To Community Month.\*
- V. #181-09 Authorize TDR Grant Application from the Highlands Water Protection & Planning Council.\*

Consent agenda motioned by Galate, seconded by Bunce. Vote was unanimous.

#### INTRODUCTION OF ORDINANCES:

- A. #182-09 Intro. Ord. #18-2009 AN ORDINANCE ESTABLISHING A MINIMUM AND MAXIMUM RANGE OF SALARY AND COMPENSATION FOR CERTAIN TITLES OF OFFICERS AND NON-CONTRACTUAL EMPLOYEES OF THE BOROUGH OF HOPATCONG. Motioned by Francis, seconded by Bunce. Roll Call Vote: **YES** - Francis, Bunce, Galate, McManus, Modick, Young.
- B. #183-09 Intro. Ord. #19-2009 AN ORDINANCE TO AMEND AND SUPPLEMENT CHAPTER 242 OF THE CODE OF THE BOROUGH OF HOPATCONG, SUSSEX COUNTY, NEW JERSEY, ENTITLED "ZONING" BY AMENDING SUBSECTION 242-5 TO CHANGE THE DEFINITION

OF "BOATHOUSE" AND TO INCLUDE A NEW SUBSECTION (9) IN SECTION 242-30D TO AUTHORIZE THE CONSTRUCTION OF A FLAT ROOF ON A BOATHOUSE SUBJECT TO CONDITIONS. Motioned by Bunce, seconded by Francis. Roll Call Vote: **YES** - Bunce, Francis, Galate, McManus, Modick, Young.

- C. #184-09 Intro. Ord. #20-2009 AN ORDINANCE TO AMEND AND SUPPLEMENT CHAPTER 242 OF THE CODE OF THE BOROUGH OF HOPATCONG, SUSSEX COUNTY, NEW JERSEY, ENTITLED "ZONING" BY AMENDING SUBSECTION 242-22 "YARDS" TO CHANGE THE SETBACK REQUIREMENTS FOR CORNER LOTS. Motioned by Francis, seconded by McManus. Roll Call Vote: **YES** - Francis, McManus, Modick, Young. **ABSTAINED** - Bunce, Galate.

#### RESOLUTIONS:

- A. #185-09 Approve Amendment to Temporary Budget. Motioned by Bunce, seconded by Francis. Roll Call Vote: **YES** - Bunce, Francis, Galate, McManus, Modick, Young.
- B. #186-09 Approve Payment of Bills, following the removal of checks #26534, #26539 & #26548. Motioned by Bunce, seconded by Galate. Roll Call Vote: **YES** - Bunce, Galate, Francis, McManus, Modick, Young. #187-09 Approve Payment of Check #26534, #26539 & #26548, moved by Bunce, seconded by Francis. Roll Call Vote: **YES** - Bunce, Francis, McManus, Modick & Young. **ABSTENTION** - Galate.
- C. #188-09 Approval of Severance Pay for Employees Accepting Employment prior to Date of Termination. Motioned by Francis, seconded by Bunce. Roll Call Vote: **YES** - Francis, Bunce, Galate, McManus, Modick, Young.
- D. #189-09 Authorize Sussex County Health and Human Service Agreement for Hopatcong Health Department. Motioned by Bunce, seconded by Galate. Roll Call Vote: **YES** - Bunce, Galate, Francis, McManus, Modick, Young.
- E. #190-09 Authorize Separation & Agreement & Release of Claims with Phil Morlock. Motioned by Bunce, seconded by Galate. Roll Call Vote: **YES** - Bunce, Galate, Francis, McManus, Modick, Young.
- F. #191-09 Authorize Submission of a NJ Dept. of Community Affairs SHARE grant application. Mr. Eskilson reported that this resolution supported the Sussex County grant application. Motioned by Bunce, seconded by Galate. Roll Call Vote: **YES** - Bunce, Galate, Francis, McManus, Modick, Young.
- G. #192-09 Authorize Submission of Federal Aid Transportation Enhancement Program Grant Application. Motioned by Bunce, seconded by Galate. Roll Call Vote: **YES** - Bunce, Galate, Francis, McManus, Modick, Young.

#### OLD BUSINESS:

- A. Sale of Property – Letter from Croft’s Attorney regarding subdivision. Mr. Francis noted that the terms of the sale could not be changed, as per Borough Attorney. The consensus was to have the Croft’s proceed with their applicant to the Planning Board for a lot line adjustment. The sale to be held following the lot line adjustment.
- B. #193–09 Resolution – Authorize Administrator to Submit DOP Lay–Off Plan for DPW employees. Motioned by Francis, seconded by Young. Mr. Eskilson commented that it was appropriate to take this action because he is the appointing authority for the Borough. He is working with the DOP and DPW to submit the list of the employees affected; he is waiting for DOP approval, and review of bumping rights. Roll Call Vote: **YES**– Francis, Galate, Modick, Young. **NAY** – Bunce, McManus.

**NEW BUSINESS:**

- A. #194–09 Appointment of Eileen Peters to Environmental Commission, moved by Bunce, seconded by McManus. The vote was unanimous.
- B. Amendment to Liquor License Application for Northwood Inn as per Zoning Bd. Memorialized on 3/11/09. Resolution adopted earlier in meeting.
- C. Authorize Award of Bid for Ductile Pipe & Fittings (if in order). No action taken at this time.
- D. #195–09 Endorsement of Notice of Termination Purchasing Agent – as per Administrator’s 5/1/09 Memorandum, do to economic reasons.
- E. Defeated School Budget. Resolution – Councilperson Bunce reported that a meeting was held between the Finance Committee and school officials; an agreement was reached to cut \$45,000 from their budget. The school officials revealed that in addition to this cut, they were now paying for garbage collection in the amount of \$30,000, which negatively affected this school budget. This school budget includes a cut in 20 positions, and no capital projects; the budget increase is \$72,000 above the 2008 budget. Councilman Bunce commented that if this body did not approve the \$45,000 cut, and a larger cut was authorized, they would appeal the decision. Councilwoman McManus said that she is voting no, because in the past two years we have not had a full meeting with the public and both groups; we need to have their budget audited because she has some questions about how people are being paid and annuities. Councilmember McManus reported that the audit would have costs \$6,000 to \$8,000, and by not getting the information she wants, she is voting no. Council President Galate remarked that she too had questions, and reached out to Dr. Threlkeld, who provided the answers.

Councilman Francis noted that he had attended some of the School Board meetings when the budget was being discussed; he thinks that is the best they can do. Councilperson Young said that he feels the same way as Mr. Francis; they did cut an assistant football coach, and would have good grounds for an appeal.

#196-09 – Authorize a Reduction in the 2009-2010 School Budget in the amount of \$45,000. Motioned by Modick, seconded by Bunce. Roll Call Vote: **YES** – Modick, Bunce, Francis, Galate, Young. **NAY** – McManus.

- F. Municipal Excess Liability Joint Ins. Fund – Training for volunteers, informational. JIF is requiring all volunteers to participate in a training session before May 1<sup>st</sup> of next year.
- G. Sewer Utility Connection fees – Introduction of Ordinance if in order. No action taken at this time.

COMMITTEE REPORTS: Councilwoman McManus reported that Mrs. Takacs and the Environmental Commission planted trees at the Westside Methodist Church and Durban Avenue School both trees were donated. Sheryl Nowell planted flowers in front of Borough Hall, and has provided labels for anyone interested in finding out the name of the plant. She also commented that she was sorry to see Mr. & Mrs. Gleason resign from the Commission, they were dedicated volunteers.

PUBLIC COMMENT: (comments limited to 5 minutes). Terri Walker 23 Staten Trail spoke about 40A:22, Public Trust and Public Interest; violations are happening in Hopatcong. She asked Mayor Petillo if she has a conflict of interest. Mayor Petillo responded that her husband has not done any work in Hopatcong or Sussex County. Mrs. Walker told Mayor Petillo to read her minutes of Feb. 17<sup>th</sup>. She also inquired as to what the River Styx Project was. Mayor Petillo remarked that it was a vision concept for redevelopment, and that the Borough was exploring a grant for this.

Bob Daddis said that Mrs. Haines asked a question, and he did not believe that as governing body members they could not provide her with an answer. He thanked the Mayor and Council for all their hard work. Mr. Daddis asked why Mrs. McManus did not recuse herself from the garbage proceedings because there is a relationship with an employee. He questioned Mr. Ursin why was this allowed because he thinks it was an ethics violation. Mr. Ursin said that in general whether or not there is a conflict is determined by the individual; they are governed by what they believe the facts to be. Councilperson McManus remarked that to have a conflict she would have to benefit personally, and she does not. Mr. Daddis could write a letter to the Ethics Board; she did discuss this matter with the Municipal Attorney and made her decision.

Greg Mason revealed that at one of the budget meetings he asked about combining Firehouses #3 & 4 as a cost savings measure. He discussed

this with his son, and was told that this proposal doesn't make sense. Regarding the Hopatcong Ambulance Squad he noted that they have four vehicles, and this does not make sense to him. He believes that three would be sufficient, especially since insurance is being paid for and one vehicle is kept outdoors. Mr. Mason remarked that he would like to know why the Squad has four vehicles.

Mrs. Haines stated that she finds out information by making phone calls, etc., she does her own work. She had a few questions about sewers and gallons provided by the MSA. Councilman Bunce informed those present that we use about 360,000 to 380,000 gallons per day, and that the Borough pays for a minimum number of gallons. Mrs. Haines said that 435,000 were the minimum gallons paid for, and that we need to see our sewer costs reduced, and wanted to know what we pay for a gallon of water from the MSA.

A resident said they want to pass an ordinance to require an open meeting to make school budget cuts. Mayor Petillo commented that they could suggest anything they wanted.

Council President Galate moved to adjourn at 10:50 p.m., seconded by Bunce. Those present voted affirmative.

Respectfully submitted: