

**BOROUGH OF ROCKY HILL
COUNCIL MINUTES
March 16, 2009**

The regular meeting of the Borough Council of the Borough of Rocky Hill was called to order by Mayor Edward Zimmerman at 7:30 PM followed by the salute to the Flag. A moment of silent meditation was observed in memory of residents Lillian Durling and Harold Hinkson.

NOTICE OF COMPLIANCE WITH OPEN PUBLIC MEETINGS ACT

The following statement was read into the record by Mayor Zimmerman: This meeting is called pursuant to the provisions of the Open Public Meetings Law. This meeting was included in a list of meetings transmitted to the Courier News and Somerset Spectator on January 8, 2009. Notice remains continuously posted as to required notices under the Statute. A copy of this notice is available to the public and is on file in the Office of the Borough Clerk.

ROLL CALL

Mr. Jim Banks-present, Ms. Linda Goldman-present, Mr. William Hallman-present, Ms. Julia Hasser-present, Mr. Mark Pausch-present, Ms. Courtney White-present

Also present: Borough Attorney Albert Cruz, CFO Ross Bobal, RMA Bob Morrison

MAYOR'S COMMENTS

- Deputy Clerk Whitlock was recognized for the safe landing of a plane he was piloting that experienced mechanical problems with the landing gear.
- Mayor Zimmerman will be out of town from 3/26-3/31/09. Council President Hallman will be available during the Mayor's absence.

Appointment of 2009 Municipal Wastewater Management Planning Committee – Advice and consent of Council was requested for the appointment of Council members Hasser and Pausch to the 2009 Wastewater Management Committee. Council members Hasser and Pausch will replace Council members Griner and Banks who were among the appointed members to the Committee in 2008. Motion was made by Hallman with a second by Goldman confirming the appointments. Motion carried on roll call vote - all ayes; Hasser-nay.

APPROVAL OF MINUTES

Special Meeting Minutes –February 17, 2009 – Motion was made by Hasser with a second by Goldman for the approval of the minutes as presented. Motion carried on roll call vote – all ayes.

Regular Meeting Minutes - February 18, 2009 - Motion was made by Hasser with a second by Pausch for the approval of the minutes as presented. Motion carried on roll call vote - all ayes.

REQUEST OF COUNCIL FOR NEW OR OLD BUSINESS (NOT ON AGENDA)

Special Business – Emergency Temporary Budget Resolution
New Business – Earth Hour – Hallman; Under Age Drinking Ordinance - Hasser

PUBLIC COMMENT

The floor was opened to the public for comments/questions:

Cliff Moore, Skillman Ave. – As requested, Mayor Zimmerman provided information on two recent car burglaries within the Borough as reported by the NJ State Police.

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ENGINEER'S REPORT - March report discussion carried to 4/6/09 meeting.

CHIEF FINANCIAL OFFICER'S REPORT

Cash receipts report and expenditures report as of 2/27/09 were distributed. Escrow account report printed 3/16/09 was distributed. Motion was made by Goldman with a second by Banks to accept the reports as submitted. Motion carried on roll call vote – all ayes.

DEPARTMENTAL REPORTS

Tax Collector – February 2009
Tax Collector's Annual Report – 2008
Court Administrator – February 2009
Uniform Fire Code Annual Report – 2008 – Authorization of Certification by Mayor

The Court Administrator's report was summarized by Mayor Zimmerman. Motion was made by Goldman with a second by Hasser to accept the reports as submitted and to authorize the signature of the Mayor on the Uniform Fire Code Annual Report as required. Motion carried on roll call vote –all ayes.

APPROVAL OF VOUCHERS TO BE PAID

Bill lists dated 3/2/09 and 3/16/09 were presented. Motion was made by Hasser with a second by Banks for approval of the bill lists with the exception of check nos. 5476 and 5477 on the 3/2/09 bill list (reimbursement checks to Council members Pausch and Goldman, respectively). Motion carried on roll call vote – all ayes. Motion was made by Hasser with a second by Banks for the approval of check nos. 5476 and 5477. Motion carried on roll call vote – all ayes; Goldman, Pausch-abstain.

COMMITTEE REPORTS:

Administration & Records – Council member Goldman provided an update on visitors to the website. She advised that the shelving was installed in the records room on 3/7/09. CFO Bobal was requested to review the financial records for disposition and transfer the remaining records to the new room. In response to questioning on the status of the remote access to the software system, Councilman Banks advised that he has made several phone calls to Comcast to no avail. Mayor Zimmerman offered to assist with making a contact at Comcast.

Buildings & Grounds – Mayor Zimmerman related that request has been received for use of the soccer fields behind Borough Hall by the Princeton Football Club on 3/23, 3/26, and 3/30/09. Resident Chuck Cook is involved in the organization. The club has offered to set up the soccer goals recently purchased by the Borough, will pay the Borough \$50/session, and a certificate of insurance will be provided. Motion was made by Hallman with a second by Hasser authorizing the use of the field contingent upon receipt of a certificate of insurance. Motion carried on roll call vote – all ayes.

Finance & Insurance – Insurance meeting with Bollinger Insurance was cancelled and needs to be rescheduled. Clerk Griffiths will provide copies of the 2009 policies from Bollinger and Statewide Insurance to Council members Goldman and Banks for review. Council member Banks advised that the “Welcome to the Borough” signs have been received and payment of same was listed on this evening's bill list.

Public Safety & Emergency Services – Council member Hallman advised that the Borough constables have been making their rounds; NJSP report dated 2/28/09 for February was summarized (copy on file in Borough Clerk's Office). Deputy Clerk Whitlock extended an invitation to the Mayor and Council on behalf of the Fire Department requesting their attendance at the brunch being held on 3/28/09 at noon in observance of the delivery of the new fire truck. Model #'s of portable radios for the constables will be obtained by the Mayor. A meeting will be scheduled with representatives of the Rescue Squad to go over

the process for submitting vouchers for reimbursement (as is done by the Fire Department).

Streets & Roads – Council member White advised that the pothole on Princeton Ave. has been filled. It was noted that the pothole on Montgomery Ave. needs to be addressed as well as the “hump” sign that is still down on Merritt Lane. PSE&G is coming out to evaluate the leaning pole on Princeton Ave.

Water, Sewer & Environmental Protection – Letters have been exchanged between Mayor Zimmerman and Mayor Wilson regarding the pending issue with the sewer usage and “fair share” of payment being requested by the Township (latest letter received from Mayor Wilson dated 3/3/09). Mayor Zimmerman advised that Engineer Tanner has compiled some figures relative to the Borough’s usage and payment which differs from Montgomery Township’s accounting. Engineer Tanner will be meeting with Montgomery representatives to go over the figures. Mayor Zimmerman related that there is a need for a new sewer authority agreement whereas the current agreement has been expired for some time. Auditor Morrison offered that while he has a conflict of interest with this issue, he agrees that a new agreement is in order. He offered that the plant was one half of the size at the time the Borough became an investor and there are currently eight plants. It was noted that the Borough was not the cause of the expansion and our usage has not expanded. Mayor Zimmerman further offered that consideration should be given to hiring a forensic auditor to review the ongoing issue with the usage and billing and to help develop a new agreement. It was the consensus of Council that Mayor Zimmerman, Council members Hasser and Banks should meet with a forensic auditor to obtain a proposal. It was noted that this service could be funded from the water/sewer budget.

Council Representative to Planning Board – Council member Goldman reported that the Rocky Hill Inn application was denied without prejudice. Professional services contracts were signed.

- **2003 Design Guidelines Grant** - Mark Blasch, Planning Board member, was present to provide an overview of the direction being taken by the Planning Board relative to the 2003 County Design Guidelines Grant. Mr. Blasch related that two guidelines have been prepared by the Planning Board; one in 1989 which pertains to large scale development (based on Schafer Tract area being developed) and one was done pertaining to renovations/changes to buildings which was geared toward the history of the town. The Board is proposing to create a new document to address renovations/changes to be made within the historic district. The document is not intended to be a strict guideline but will include the styles of buildings in town and will offer suggestions on updating and keeping with the character of the town. It is intended to be a permissive rather than mandatory guide and will not be an extension of ordinance regulations. It will serve as a guide to homeowners before they hire professionals and buy materials.

The Planning Board's subcommittee has met with their Historic Architect, Michael Calafati to discuss the cost of doing a report/guideline of this nature to satisfy the grant requirements. Mr. Calafati will develop the guideline at a total cost of \$13,000.00. The County grant is a 50% match so the Borough would be responsible for half of the cost. Chairman Pihokken wanted the concept of what is being proposed presented to Council before proceeding to the County.

Discussion ensued regarding whether there is a need for a guideline of this nature. Councilman Hallman offered that an inventory of the styles of the houses in the district could be taken by block and lot number and resource links could be made available to residents for reference purposes. Council member Goldman questioned whether this suggested approach would meet the grant criteria. Councilmember Hasser suggested that consideration be given to borrowing and modeling from guidelines of others. She further questioned whether the new document would outdate itself with ongoing changes. Mr. Blasch responded that the guideline would not necessarily be giving detail. Mayor Zimmerman related that most residents are unaware of the style of house they have so Mr. Hallman's suggestion would be helpful. It was noted that it may difficult to characterize the house styles since there have been renovations over the years.

Ms. Goldman related the Borough’s three options: 1) continue on with what the Planning Board's Historic Subcommittee mission as presented this evening; 2) Return the \$6750 grant monies to the County; 3) Attempt to recraft the grant to what Mr. Hallman has proposed. A poll was taken as to whether Council agrees with the Board pursuing their design guidelines proposal (as presented) with the County: White-yes, Banks-yes, Hasser-no, Hallman-no, Goldman-no, Pausch-yes, Zimmerman-yes. Based on the majority vote, the Planning Board will be advised to move ahead with presenting their proposal to the County.

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However, request was made that the Board report back to Council with the County's comments before awarding any contracts or expending the funds.

Council Representative to School Board – Mayor Zimmerman attended the Board's budget meeting. The budget appears to be \$10,000.00 less than previously anticipated. However, they are anticipating an increase of 17.4 cents which equates to an 8.77% increase or \$550/household assessed at \$300,000.

Council Representative to Board of Health – Council member Goldman advised the Board will be meeting tomorrow at which time discussion will continue on the Somerset County agreement. The Rabies Clinic is scheduled for 4/18/09 at the Fire House from 12:00 Noon to 2:00 PM. License applications will be made available at the clinic. Pets will need to be licensed by 4/30/09 to avoid late fees.

Zoning Officer - Zoning Official Whitlock reported that the Rocky Hill Inn's application was denied without prejudice by the Planning Board. The owners advised that they were not pursuing their application. However, the wall and lights are still in place. The Board's professionals are reviewing the situation to determine whether a variance request is in order. An issue was raised by Board member White regarding changes made to the Donato residence subsequent to Planning Board approval. Mr. Whitlock made an earlier finding that the changes were non-substantive; however, Mr. Whitlock and Mr. White met with Construction Official Ward to review the changes that were made. Mr. Donato, the homeowner, advised that some of the changes that were made were due to construction constraints. Mr. Donato is scheduled to reappear before the Board to explain the changes that were made. A planning board member contacted Mr. Whitlock regarding window replacement being made at 25 Crescent Ave. A question was raised as to whether the resident had a certificate of appropriateness and building permit. Mr. Whitlock followed-up on the complaint finding that the homeowner was unaware they were in the historic district and needed a certificate of appropriateness. Discussion ensued relative to the need for information to be provided to residents who reside within the historic district.

Grants Committee - Councilman Hallman advised that an Energy Audit application has been filed with the County on behalf of the Borough. Information on a firefighter's assistance grant will be provided to the Fire Department.

Recreation Committee – Melissa Bernardi of the Recreation Committee presented a request for the 2009 Tennis Program. The Princeton Tennis Program (PTP) is offering the camp once again for 6-12 year olds, (maximum of 12 children) at a cost of \$1200.00. Request was made for the expenditure of \$1200.00 for the camp and an additional \$50.00 for the newsletter. Discussion ensued regarding whether a fee should be charged to users to offset the cost since the availability of the program is limited to select residents. It was the consensus of Council that a user fee be imposed. Motion was made by Goldman with a second by Pausch to assess a user fee of \$25.00 per child and approve the expenditure of funds up to \$1250.00. PTP will be responsible for collecting the \$25.00 per child fee and the Borough will pay the difference for the cost of the program. It was agreed that options could be reconsidered if more than 12 children enroll. Motion carried on roll call vote – all ayes.

SPECIAL BUSINESS

Resolution 2009-27 - Temporary Budget Resolution – Motion was made by Goldman with a second by Banks approving the temporary budget resolution as presented by CFO Bobal. Motion carried on roll call vote – all ayes.

Budget Discussion - Auditor Morrison was present to provide an overview of the budget developed based on discussion at the budget workshop. A copy of the Borough's Annual Financial Statement as prepared by Auditor Morrison was provided via e-mail. Copy of the Certification of State Aid for Calendar 2009 was distributed at the meeting by Mayor Zimmerman. It was noted that there has been an additional cut of 2.5% to the Borough's aid resulting in a total loss of CMPTRA aid of 25%. The net effect of the additional 2.5% equates to an additional \$2517. Auditor Morrison presented a proposed budget reflecting a 2.3 cent tax increase which would keep the Borough slightly under the maximum tax levy cap. The increase is primarily based on the reduction in State aid, legal expenses, and the need to replenish the surplus due to the recent purchase of the fire truck. It was noted that the surplus has been diminished due to the purchase

of the fire truck and the Borough may have to fully cap out next year to replenish the surplus but 4% may not meet what will be needed for next year. Discussion ensued regarding not raising taxes vs. raising the taxes to the allowable cap. Auditor Morrison advised that by not raising to the maximum cap levy this year, there will be an inability to raise to the maximum next year which will ultimately result in a long-term effect on the budget.

It was the consensus of Mayor and Council that while it is not favorable to raise the taxes, due to the reduction in State aid, the Borough should take the increase to the full 4% levy cap this year (an additional .7 cents or \$10.00 per household based on 300,000 assessed value) to ensure that the Borough is not further penalized by the State, to regenerate the surplus going forward, and to work with a balanced budget. Auditor Morrison concurred with raising the tax levy by the additional .7 cents to a total of a 3 cent increase for the same reasons set forth. A budget will be prepared for introduction at the 4/6/09 meeting. Council member Hasser will confer with CFO Bobal on the 2009 Water/Sewer Budget as requested by Auditor Morrison. In response to questioning by Council member Goldman about meeting the introduction deadline date of 3/31/09 which has already been extended by the State, Auditor Morrison advised that the introduction date may be extended again, but if not, there would be no penalty for introducing on 4/6/09.

Introduction: Ordinance #2, 2009 – “An Ordinance Repealing Section 133-1E of the Code of the Borough of Rocky Hill, Somerset County, New Jersey” – Ordinance as filed in the Borough Clerk’s office was read by title. Motion was made by Hasser with a second by Goldman to introduce the ordinance. Motion carried on roll call vote - all ayes. Public hearing scheduled for April 6, 2009 at 7:30 PM.

Introduction: Ordinance #3, 2009 – “An Ordinance Authorizing the Execution of a Lease Agreement with Metro PCS New York, LLC, for a portion of Lot 1, Block 5 as shown on the Borough of Rocky Hill Tax Map” – Ordinance as filed in the Borough Clerk’s office was read by title. One bid was received in response to the solicitation of bids for the water storage tank antenna bid from Metro PCS New York, LLC, at \$2600/month. Exceptions were included with the bid that has been reviewed by Attorney Cruz. After discussion with representatives from Metro PCS, Attorney Cruz has found that four of the exceptions are acceptable. One of the other exceptions has been withdrawn and the remaining exception dealing with an early termination exception for economic reasons was presented to Council for discussion. Attorney Cruz related that it is not an unusual request from the telecommunications industry especially under today’s economic circumstances. Metro PCS has agreed to provide for a one year rental payment as liquidated damages for early termination for economic reasons. Attorney Cruz related the following additional requests received today. An option of a termination provision if they cannot move forward due to environmental conditions beyond their control that prohibit the activity was requested. This provision is subject to a structural inspection of the tank that would be borne by the provider. Attorney Cruz advised that this is consistent with leases of this type. The third exception relates to radio frequency interference. Due to the fact that the provider is co-locating on the tower, they are requesting the option to terminate the lease for interference. Attorney Cruz does not agree with this request noting that the provider should be researching this potential problem. He was in agreement that if there is a problem with interference with an existing carrier it is the incoming provider’s problem. If the Borough approves a future carrier that interferes, then it would be the Borough’s problem to deal with. Council was in agreement with the recommendations set forth by Attorney Cruz. A revised agreement will be presented at the next meeting. Motion was made by Goldman with a second by Hasser to introduce the ordinance as presented. Motion carried on roll call vote – all ayes. Public hearing scheduled for April 6, 2009, at 7:30 PM.

Resolution 2009-28 – Authorizing Special Counsel to enter into Defense Agreement on behalf of the Borough, Re: Christopher Obchinetz v. Township of Maple Shade, et als. - Resolution was presented authorizing Francis McDevitt, Esq. to enter into a joint defense agreement on behalf of the Borough. Attorney McDevitt was designated by the Borough's insurance company to represent the Borough. Due to the fact that there are over 200 defendants in this case, defense counsel has proposed to enter into a cooperative agreement to defend the matter. Attorney Cruz agrees with the appointment set forth. Motion was made by Hasser with a second by Goldman to approve the resolution as presented. Motion carried on roll call vote - all ayes.

Resolution 2009-29 – Transfer of Funds – Motion was made by Hallman with a second by Goldman authorizing the transfer of funds in the amount of \$2035.00 to the Planning Board O.E. budget. Motion carried on roll call vote – all ayes.

UNFINISHED BUSINESS:

Draft Parks and Recreation Ordinance Discussion – Pending comments from Montgomery Township. A meeting is being scheduled with Montgomery Township.

Possible Award of Quote – Electrical Work –Mail Room – Councilman Pausch presented quote of \$1475.00 for electrical work to be done in the mail room. It was noted that an upgraded service is needed for the outlet to be placed in the room. Motion was made by White with a second by Goldman authorizing the expenditure of funds up to \$1500.00. Councilman Pausch will attempt to obtain another quote at a lesser price. Motion carried on roll call vote – all ayes; Hasser-nay.

Transferring Equipment from Rocky Hill Municipal Well Superfund Site - Authorization of Mayor's signature on Application - Application is required to be completed and returned to the New Jersey State Police, Federal Surplus Property Unit, in order for the Borough to take possession of the well monitoring equipment at the former Princeton Gamma Tech site per the EPA. Authorization was made by Hallman with a second by Goldman for the authorization of the Mayor's signature on the application. Motion carried on roll call vote - all ayes.

NEW BUSINESS:

Earth Day Clean Up – Requested Date of 4/18/09; Rain date 5/2/09 - Request was made by the Community Group to conduct an Earth Day Clean up on the Borough Hall grounds and at Van Horne Park on 4/18/09 from 10:00 AM to 12:00 Noon. The rain date would be 5/2/09. Motion was made by Hasser with a second by Banks approving the request. Motion carried on roll call vote - all ayes; White-abstain.

2009 Sidewalk Improvements – Authorization to Bid - Request was received from Engineer Tanner to put out to bid the Phase II Sidewalk Repair project. Motion was made by Hallman with a second by Hasser authorizing the request. Motion carried on roll call vote - all ayes.

Earth Hour – Council member Hallman requested that the Borough participate in an Earth Hour event being held on 3/28/09 from 8:30 to 9:30 PM. Residents are requested to participate in the call for "lights out" during the Earth hour. Proclamation was set forth by Mayor Zimmerman (appended hereto) proclaiming the Borough's support and participation on 3/28/09 at 8:30 PM.

Under Age Drinking Ordinance - Council member Hasser requested consideration be given to reviewing an Under Age Drinking Ordinance. A draft ordinance will be provided to Clerk Griffiths for distribution to Council. Carried to next meeting.

COMMUNICATIONS:

Communications as listed were distributed, disseminated and filed accordingly. Additional correspondence was received as follows:

- Letter dated March 3, 2009 from Mayor Wilson to Mayor Zimmerman, Re: Sewer Agreement was entered into communications.

FINAL PUBLIC COMMENT

The floor was opened to the public for comments/questions. Hearing none, the floor was closed to the public.

ADJOURNMENT:

Motion was made by Hasser with a second by White to adjourn the meeting at 10:35 PM. All voted in favor of adjournment.

Respectfully submitted:

Donna M. Griffiths, RMC
Borough Clerk