

**BOROUGH OF ROCKY HILL
COUNCIL MINUTES
July 20, 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.

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, Ms. Courtney White-present.

Absent: Mr. Mark Pausch

Also present: Borough Attorney Albert Cruz, Deputy Clerk Raymond Whitlock, RMA Robert Morrison, CFO Ross Bobal, Engineer William Tanner

MAYOR'S COMMENTS

- Mayor Zimmerman thanked all who helped out in making the Fourth of July parade/picnic a success; there were over 500 attendees.
- Appreciation was extended to the Rocky Hill Fire and Rescue Squads for their response to the plane forced to make an emergency landing in Van Horne Park;

Appointment of Mayor's Committee on Education - Mayor Zimmerman advised that Governor Corzine signed legislation on 6/30/09 abolishing non-operating school districts resulting in the dissolution of the Rocky Hill School Board of Education and merger with the Montgomery Township School Board effective 7/1/09. The transition is underway and Randie Zimmerman will be temporarily appointed to the Montgomery Board of Education until the school election in April 2010. Mayor Zimmerman requested advice and consent of Council for the establishment of a Mayor's Committee on Education which will be comprised of the members of the Rocky Hill Board of Education. Terms of the appointment on the Committee will coincide with the elected terms of the elected officials as they were with the School Board. Motion was made by Hasser with a second by White confirming the establishment of a Mayor's Committee on Education. Motion carried on roll call vote - all ayes.

APPROVAL OF MINUTES

Regular Meeting Minutes – June 15, 2009 - Motion was made by Goldman with a second by Hasser for the approval of the minutes as presented. Motion carried on roll call vote - all ayes.

Executive Session Minutes – June 15, 2009 – Motion was made by Hallman with a second by White 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 - Resolution - Terminating contract for School Consolidation Study
New Business - Walking Tour Guide - Jeanette Muser
Membership Application - Rocky Hill Hook and Ladder Fire Company

PUBLIC COMMENT

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

Jane Oakley, 24 Montgomery Ave. - Ms. Oakley appeared before Mayor and Council on behalf of the Rocky Hill Citizens for Responsible Growth group. Ms. Oakley provided background on the formation of the group and the lawsuit filed on behalf of the group. Ms. Oakley expressed on behalf of the group that they are pleased with the outcome of the suit, the preservation of the historic district of Rocky Hill, and the Borough's work towards responsible growth.

Hearing no other comments/questions, the floor was closed.

STATE POLICE REPORT - NJSP report dated 6/30/09 for June 2009 as received from Lt. Skelton was summarized by Council member Hallman (copy on file in Borough Clerk's office).

ENGINEER'S REPORT - Report dated July 20, 2009 for June 2009 as received from Engineer Tanner was distributed (copy on file in Borough Clerk's office). The following items were discussed:

Hickory Court Road Improvements - Work is underway on Hickory Court. The municipal parking lot has been completed. It was noted that the post office should be notified of road construction projects being done throughout the Borough in the future whereas there was a recent issue experienced with the delivery of mail by the postal carrier on Hickory Court during construction. Engineer Tanner will notify the post master of the other road/sidewalk projects currently underway.

County Park Maintenance - A list of outstanding 2008 expenses was received from Montgomery Township. Engineer Tanner will review the paperwork and report back at the next meeting.

Trails Grant/Easement - Engineer Tanner discussed the acquisition of an easement with the Business Park owner. The property owner is amenable to the granting of an easement provided it does not compromise future development of the property. Engineer Tanner and Attorney Cruz will draft easement language.

2009 Sidewalk Improvement Project/Washington St. - Engineer Tanner advised that sidewalks for repair/replacement have been marked out. It was noted that there are additional sidewalks that are in need of repair/replacement since the Phase II project was estimated. It was agreed that these additional repairs/replacements would be earmarked for a future phase. Engineer Tanner reported that the contractor has agreed to include any sidewalk in the Borough within the right of way at the same price as set by the Borough contract for residents. The contractor is delivering letters to the residents on the streets that they are working on to make them aware of the offer.

Tennis Wall - Final bill has been received for payment. Letter dated 7/17/09 from Engineer Tanner was sent to the Construction Official in response to a construction question raised. Engineer Tanner advised the Construction Official that the wall is within specifications, constructed to his satisfaction, and is structurally safe and sound.

Resolution 2009-52 - Authorizing the Filing of 2009 County Youth Athletic and Recreation Facility Grant - Discussion ensued regarding the filing of the 2009 application and projects to be earmarked for the grant. It was noted that the County is offering another option to the traditional Youth Athletic and Recreation Grant, an Alternate Program for Municipal Need Grant in order to provide more flexibility to municipalities. Suggestions were offered for projects for consideration at Panicaro Park to include: passive recreation area to include gardens area and benches/seating and tables around monument area for memorial services, electricity, flagpole, recreation equipment. Also suggested was funding for electronic locks for the restrooms at Van Horne Park (to be jointly funded by Montgomery Township if approved). Motion was made by Goldman with a second by White approving the filing of the grant application and

resolution for funding under the Alternate Program for Municipal Need Grant given the type of the projects being requested. Motion carried on roll call vote - all ayes.

Park Clean-Up - Request will be made to have the Sheriff's Department workers weed at Crescent Point Park, Princeton Ave., and Borough Hall.

Tier B Permit - Engineer Tanner advised that the Borough can take advantage of obtaining additional points to meet the Tier B point requirements by posting a link to the NJDEP education materials information on the website. Council member Goldman will post the link on the Borough's website.

Council comments/questions:

- Engineer Tanner will look at the tennis court cracks. It was noted that the courts were repaired last year;
- Councilman Banks will notify the Shade Tree Commission of a dead tree in front of 161 Washington St.

Public comments/questions:

Susan Bristol, 104 Washington St. - Ms. Bristol advised that the tree by the tennis wall is dead. She recommended that money be budgeted for a landscape architect for Master Plan planning purposes whereas projects/improvements could be prioritized and it would also help to visualize what and where landscaping should be.

CHIEF FINANCIAL OFFICER'S REPORT

Cash receipts report, Budget Trial Balances, and Trust Fund Account reports dated 6/30/09 were presented by CFO Bobal. It was noted that funds encumbered for counsel for the consolidation of the school board study should be unencumbered due to the fact that the Borough is terminating the contract with the firm. Motion was made by Banks with a second by Goldman for the acceptance of the reports as submitted. Motion carried on roll call vote - all ayes. Question was raised as to the process to be followed going forward regarding school board payments to be made to Montgomery Township. RMA Morrison provided information on the two options available for making payments. Mr. Morrison recommended that Montgomery Township provide a schedule of payments due and the Borough adopt a resolution authorizing monthly payments according to the schedule.

DEPARTMENTAL REPORTS

Tax Collector – June 2009
Court Administrator – June 2009

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. Motion carried on roll call vote –all ayes.

APPROVAL OF VOUCHERS TO BE PAID

Bill list dated 7/20/09 was presented. Deputy Clerk Whitlock noted for the record that two checks were voided. Motion was made by Goldman with a second by Banks to approve the bill list. Motion carried on roll call vote – all ayes.

COMMITTEE REPORTS:

Administration & Records – Council member Goldman advised that a re-drafted version of the Parks ordinance has been distributed for review and discussion; the Vicious Dog ordinance has been re-drafted for review and discussion; the land use ordinances are being worked on. Website visits are up by 17%.

Buildings & Grounds – No report at this time.

Finance & Insurance – Council member Banks related that Bollinger Insurance has confirmed that there will not be a compromise to the inspection of the boiler by canceling the Hartford Steam Boiler coverage policy. Bollinger is moving ahead on the cancellation of the duplicate coverage.

Public Safety & Emergency Services – NJSP report previously provided. Mayor Zimmerman requested that the Constable make contact with the property owner at Montgomery Ave. and Route 518 regarding the sight problem being experienced by the overgrown hedges. It was noted that another motor vehicle accident occurred at that intersection. It was agreed that options should be explored once again for more traffic safety equipment/measures at this intersection.

Recreation - Council member White advised that there was a great response to the Recreation Tennis Camp and requests were received for the continuance of the program next year.

Streets & Roads – Council member White advised that the road was paved in front of the library. Water Superintendent Merk is aware of the manhole problem on Princeton Ave. and is looking into it. Inquiries have been received from residents on Washington St. regarding repair/replacement of sidewalks on Washington St.; they will be advised that area will be reviewed for a Phase 3 project. PSE&G has put a hold on the replacement of cable project on Washington St. due to circuit problems. They have also advised that the project is on their priority list for stimulus funding projects and they anticipate being back on the job in a few weeks. Ms. White will follow up with Superintendent Merk on the depressed asphalt area where the fire hydrant was replaced on Washington St. near the Shedd property as requested by Ms. Goldman.

Water, Sewer & Environmental Protection – Council member Hasser provided a summary of the June utility report dated 7/7/09 as provided by Superintendent Merk.

Council Representative to Planning Board – Ms. Goldman related that the following projects were approved at the Board meeting: fence at 60 Princeton Ave., Metro PCS Site Plan, repair of steeple at Trinity Church.

Council Representative to School Board – Council member Hallman was designated as the Mayor's liaison to the Committee on Education by Mayor Zimmerman.

Council Representative to Board of Health – The Board did not meet in July. Poison ivy was removed in the area of Crescent Ave. by Health Officer Uhrik. Mr. Uhrik is recommending that poison treatment be applied to the area by the Borough landscaper. Suggestion was noted and consideration will be given to retaining a service for treatment of the problem.

Zoning Officer - Zoning Official Whitlock expressed concern with the process being followed by the Planning Board and Historic Subcommittee. He related that projects that have been forwarded to the Historic Subcommittee for review and approval have been deferred back to the Planning Board thus resulting in the delay of action on projects. Mr. Whitlock is requesting that guidelines and process for the Historic Subcommittee be more defined. Changes to the Donato residence were approved by the Planning Board with the exception of an outstanding issue relative to window trim; Mr. Whitlock is recommending that a certificate of occupancy be issued.

Grants Committee – Letter dated 6/15/09 from the Somerset County Energy Council advising of the award of the energy audits contract to Dome-Tech Inc. was received. Councilman Hallman advised that the energy audit firm will be making contact for site visits. A grant application as prepared by Mayor Zimmerman, Councilman Hallman, and Fire Chief Harris was submitted for renovations to the Fire House.

SPECIAL BUSINESS

Possible Adoption of Resolution 2009-30 – Rocky Hill Municipal Budget - Approval for the adoption of the Borough's budget was received from the Division of Local Government Services. The Budget Resolution was read into the record by Auditor Morrison. Mayor Zimmerman re-opened the public hearing for comments/questions from the public. Hearing none, the floor was closed. Motion was made by Banks with a second by Goldman for the adoption of the 2009 budget. Roll call: Banks-aye, Goldman-aye, Hallman-aye, Hasser-aye, White-aye. Motion carried. A finalized copy of the budget will be provided by Auditor Morrison for distribution to Mayor and Council.

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Distribution of Municipal Audit for Years Ended December 31, 2007 and 2006 - Copy of the 2007 audit as prepared by Auditor Morrison was distributed to Mayor and Council. A resolution and group affidavit will be prepared for action at the next meeting. The 2008 audit will be filed within the new two weeks.

Resolution 2009-53 - Extension of Third Quarter Tax Due Date - Due to late adoption of the budget, resolution was presented by the Tax Collector requesting an extension of payment for the third quarter tax bills. Motion was made by Hallman with a second by Hasser approving the resolution with an extension for payment of third quarter taxes through August 31, 2009. Motion carried on roll call vote - all ayes.

Resolution 2009-54 - Ratifying Resolution - Acting Constables - Motion was made by Hallman with a second by Banks to approve the resolution ratifying action taken by Council at the last meeting authorizing council members to act in the capacity of constables for the purpose of directing traffic. Motion carried on roll call vote - all ayes.

Resolution 2009-57 - Termination of Contract - School Study - Resolution was presented recommending the termination of the contract with Anthony Sciarrillo, Esq. of Lindabury, McCormick, Estabrook & Cooper, P.C. and Associates for a school consolidation study as awarded on 4/20/09. It was noted that the firm has not responded to repeated requests from the Mayor and Borough Attorney regarding the status of the study and legislation has been enacted abolishing the Rocky Hill Board of Education. Motion was made by Hasser with a second by Goldman approving the resolution to terminate the contract. Motion carried on roll call vote - all ayes. Attorney Cruz was requested to send a letter to the firm advising of the termination of the contract.

Resolution 2009-55 - Ratifying Resolution/Appointment of Legal Counsel, Re: Borough of Rocky Hill et als. v. State of New Jersey et als. - Mayor Zimmerman advised that the Borough, Rocky Hill School Board, and Millstone Borough School Board have filed suit against the State claiming that A4141 (abolishment of non-operating school districts) is unconstitutional based on taxation without representation. Resolution was presented ratifying Council's agreement to enter into the suit and to retain the services of Matthew Giacobbe, Esq., of Scarinci, Hollenbeck, Lyndhurst, NJ, as special counsel at the rate of \$145.00/hr. for an amount not to exceed \$2,000.00. Certification of funds was received from the CFO. Motion was made by Banks with a second by Hallman approving the resolution and professional services agreement. Motion carried on roll call vote - all ayes; Hasser-no.

Resolution 2009-56 - Consulting Services Agreement - Forensic Audit - Montgomery Township Sewer Authority - Resolution and professional services agreement was presented to retain the services of M&K Rosenfarb LLC, of Tinton Falls, NJ, for an amount not to exceed \$35,000.00 for the purpose of performing a phased-in analysis of the sewer billing and operation of the Montgomery Township Sewer Authority. Certification of funds was received from the CFO. Motion was made by Hasser with a second by Goldman approving the resolution and professional services agreement. Motion carried on roll call vote - all ayes.

UNFINISHED BUSINESS:

Discussion - Re-drafted Parks and Recreation Ordinance - A re-draft of the ordinance incorporating changes in the new Montgomery Parks ordinance was distributed by Council member Goldman. Discussion ensued regarding security deposit and fee provisions. It was the consensus of Council that the Borough's ordinance should reflect only a charge or fee for profit or non-residents for use of the Borough parks. Attorney Cruz will follow-up on whether the ordinance provisions dealing with the imposition of fees is consistent with Green Acres funded parks. Under Section 131-3 - "Prohibited Activities and Conduct", Paragraph V, should be amended to read that "no person shall consume alcoholic beverages except by permit issued by the Division of Alcohol and Beverage Control and Resolution from the Borough Council. The following sections were recommended for deletion: Section 131-3 - Paragraph P and Section 131-6. An application for the use of the Borough parks will be drafted for the purpose of collecting fees

and issuance of permits.
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NEW BUSINESS:

Walking Tour Guide - Jeanette Muser, Rocky Hill Heritage Project volunteer, requested approval to have copies made of the fall newsletter and Walking Tour Guide for the Canal Days Walking Tour Event to be held on September 13, 2009. Request was granted. Copies of the information will be distributed to residents and placed in the library. Information on the Walking Tour event will be posted on the website.

Membership Application - Rocky Hill Hook and Ladder Fire Company - New member application was received for junior membership with the fire department from Adam Verducci of Belle Mead. Motion was made by Banks with a second by Goldman to approve the membership application. Motion carried on voice vote - all ayes.

COMMUNICATIONS:

Communications as listed were distributed, disseminated and filed accordingly. Additional communications were entered into the record as follows:

- Note card from resident Jeanette Muser thanking and commenting on the successful Fourth of July event that was held;
- Nomination request for Michael A. Pane Memorial Award;
- Letter dated 7/1/09 from Somerset County Action Program, Inc., Re: Request for nominees to Board of Directors.

FINAL PUBLIC COMMENT

The floor was opened to the public for comments/questions. Hearing no comments/questions, the floor was closed.

ADJOURNMENT:

Motion was made by Hallman with a second by Banks to adjourn the meeting at 9:50 PM. All voted in favor of adjournment.

Respectfully submitted:

Donna M. Griffiths, RMC
Borough Clerk