

**BOROUGH OF ROCKY HILL
COUNCIL MINUTES
April 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, Mr. Mark Pausch-present, Ms. Courtney White-present

Also present: Borough Attorney Albert Cruz, Borough Engineer William Tanner, Deputy Clerk Raymond Whitlock

MAYOR'S COMMENTS

- The Mary Jacobs Library will be holding a celebration on May 2nd in honor of the retirement of their Director Mei Mei Morris.
- The Earth Day event was held on Saturday. Appreciation was extended by the Mayor to Karen Bremner, the Steen Family, Julia Temple, Courtney White, the Witt Family and Marj Yuschak for their participation. It was noted that VanHorne Park clean-up did not get done due to the shortage of volunteers. Councilman Pausch will follow-up on whether there is still a need for clean up the creek debris by the County workers.

APPROVAL OF MINUTES

Regular Meeting Minutes - April 6, 2009 - Motion was made by Pausch with a second by Goldman for the approval of the minutes contingent upon a typographical correction and the following:
Page 4 - Planning Board Discussion - correction to language to read, "Council member/ Planning Board member Goldman offered that the matching funds had not been allocated in the Borough's budget." Motion carried on roll call vote - all ayes; Hasser-abstain.

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

None offered.

PUBLIC COMMENT

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

Ann Holmes, 10 Washington St. - Ms. Holmes advised Council that her renewal application for a dog license was returned with a note advising that the rabies vaccination needs to be current through November of 2009. Ms. Holmes advised that she was not aware of the regulation until she received the response notice and subsequently researched the regulations pertaining to same. She requested that the information be provided on the website and in the annual letter that is distributed to residents. Ms. Holmes was advised that the ordinance regulations regarding the licensing of pets is posted on the website. However, an additional note will be added informing residents of the immunization requirements. In response to

Ms. Holmes' comment regarding the inability to attend the free rabies clinic offered by the Borough during the week due to work obligations, Ms. Holmes was advised that the clinic had been moved to Saturday (the past Saturday). Ms. Holmes also expressed concern with an uncovered swimming pool located on Washington St. that is creating a problem with mosquitos. The complaint will be forwarded to the Health Officer.

Tom Bremner, 17 Crescent Ave. - Mr. Bremner appeared before Council to relate his opinion on the recent action taken by the Planning Board on the 2003 County Design Guidelines Grant. Mr. Bremner related that he is an Alternate member of the Board and did not officially act on the action taken by the Board. However, he wished to provide his comments to Council. Mayor Zimmerman related that the Planning Board voted at their last meeting to not pursue the grant as it was not a priority this year, however, consideration could be given to pursuing the grant at a future time. Mr. Bremner wanted to state on the record that when the Planning Board voted on returning the grant monies, not all information was provided to them, and the motion made to not support the grant should not be interpreted such that the Board found the grant to be of no value. Mr. Bremner related that the Board members were not aware that this County grant would be eliminated if given back and would not be available in the future, and the Planning Board voted based on the current economic and budget conditions. Mr. Bremner questioned how informed the Board could have been without having seen the budget. In closing, Mr. Bremner related that it should not be perceived that the Planning Board was not supportive of the grant project.

DEPARTMENTAL REPORTS

Tax Collector – March 2009
Court Administrator – March 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

The bill list dated 4/20/09 was distributed. Motion was made by Banks with a second by Goldman for the approval of the bill list as presented. Motion carried on roll call vote - all ayes. (Appendix)

(A change in the agenda order of business was directed by the Mayor.)

SPECIAL BUSINESS

Resolution 2009-31/Possible Award of Contract - 2009 Sidewalk Improvements - Engineer Tanner provided a spreadsheet of the results of the bids opened on 4/16/09. A total of 10 bids were received for the project which consisted of: Improvements to Washington Street (NJDOT Grant), Alternate #1 - Fire House Apron, Alternate #2 - Other Sidewalks (Crescent, Toth, Merritt, Lomore, Princeton (part), Reeve). Based on the bids received, and follow-up done on the references provided by the contractor, it was the recommendation of Engineer Tanner that the contract be awarded to T. Fiotakas Construction of Edison, NJ, in the amount of \$67,070.00. The project will be funded as follows: NJDOT FY2008 Municipal Aid Grant - \$48,150.00 - Washington St. sidewalk; 2009 Sidewalk/Facility Maintenance Account - \$18,920.00 - Alternates #1 and #2. Motion was made by Banks with a second by Hallman approving the resolution and authorizing the award of the contract based on the base amount along with the Alternate #1 and Alternate #2 amounts contingent upon certification of funds by the CFO and approval of the contractor by the NJ Department of Transportation. Motion carried on roll call vote - all ayes. Engineer Tanner advised that the project is in compliance with State Historic Preservation Office (SHPO) regulations. It was noted that the total grant for the Washington St. sidewalks is for \$200,000.00 and the award of the contract totals \$48,150.00. Engineer Tanner will follow-up with NJDOT to ascertain whether the remaining funds may be utilized to extend the scope of the contract further down Washington St. and/or for infrastructure projects. Engineer Tanner will ensure that residents are notified in advance of the project. It was also noted that the

contractor will extend the price to residents (within the project area) wishing to expand the project along their property. Engineer Tanner will follow-up with the contractor as to whether residents outside of the scope of the project may be afforded the same opportunity. Information will be posted on the website regarding the price extension to residents upon confirmation by the contractor.

(The regular order of agenda business resumed.)

COMMITTEE REPORTS:

Administration & Records – Council member Goldman advised that she is currently reviewing the Animal Ordinance, specifically pertaining to vicious/dangerous dogs along with Susan Fisher of the Board of Health. Visits to the Borough's website are up 19% from last month.

Buildings & Grounds – Council member Pausch advised that the renewal of the nursery school lease agreement will be discussed in Executive Session. Council member Banks advised that the records room renovations should be completed within the next two weeks.

Finance & Insurance – Council member Banks advised that a meeting with representatives from Bollinger Insurance was held. In attendance were Mayor Zimmerman, Council members Banks and Goldman, and Clerk Griffiths. An overview of the Borough's insurance policies as well as those of the Fire Department and Rescue Squad was provided by Bollinger. Follow-up will be made on the possible consolidation of some of these coverages as well as clarification on some other coverages. The "Welcome to Rocky Hill" signs have been installed. A meeting is scheduled with representatives from ARC for next week to discuss the grounds projects around their facility. Councilman Banks was requested to ascertain whether ARC would be interested in continuing the clean up service for the Borough grounds exclusive of Van Horne Park.

Public Safety & Emergency Services – NJSP report dated March 31, 2009 for March 2009 was received from Lt. Skelton and summarized by Councilman Hallman (copy on file in Borough Clerk's Office). Constable Chini is currently attending a Traffic Safety program offered by the County. Councilman Hallman was requested to contact NJSP to request their attendance for security purposes at the SCGOA meeting to be held at Van Horne Park on June 10, 2009.

Streets & Roads – Council member White requested that four pedestrian signs be purchased for installation prior to the town-wide garage sale scheduled for 5/16/09. Ms. White will obtain a cost for the purchase of the four signs.

Water, Sewer & Environmental Protection – Council member Hasser provided a summary of the water report for March 2009 as provided by Superintendent Merk. Mayor Zimmerman advised that he along with Engineer Tanner and Councilman Hallman attended a meeting with representatives from Montgomery Township regarding the sewer billing issue. Another meeting is scheduled for May 5th. It is anticipated that a meeting will be held with the forensic auditor prior to the May 5th meeting with Montgomery Township.

Council Representative to Planning Board – Council member Goldman related that an application was approved by the Board for the addition of dormers on the residence at 11 Montgomery Ave. Design changes were made to the Donato residence on Washington St. and the Donatos were requested to reappear before the Board. The 2003 Design Guidelines Grant was discussed by the Board. The pros and cons of pursuing the grant and expending the monies to match same (\$6750.00) were discussed. The Board agreed not to pursue the project at this time due to the fact that additional funds would need to be expended on a project that is not a priority at this time. Council discussion ensued regarding the pros and cons of returning the grant monies. It was agreed that Mayor Zimmerman would confer with the County to ascertain whether the grant monies could be utilized for a different project and/or what the ramifications would be by returning the funds.

Council Representative to School Board – School Board elections will be held tomorrow (4/21/09).

Council Representative to Board of Health – Council member Goldman provided an overview of the status of the health services contract with the County as far the review and approval process by all appropriate agencies. The service of well-baby exams/immunizations previously provided by South Brunswick is currently under discussion whereas this service is not offered under the new County

agreement. Due to the fact that the service has been used on a minimal basis, the Board of Health is looking into procuring the service via the Princeton Medical Center on a case-by-case basis. The anticipated start date of the agreement with the County is September 1, 2009. The Board of Health has reviewed and approved the animal control contract with South Brunswick and recommends the authorization of the Mayor's signature on the contract.

Zoning Officer - Zoning Official Whitlock reported as follows: Inquiry was received from resident at 36 Princeton Ave. for addition of a deck to the rear of the property - resident referred to construction official whereas certificate of appropriateness not needed; phone call was returned to new residents at 60 Princeton Ave. regarding installation of fence; Mr. Terragrossa, Montgomery Ave., was referred to the planning board with revised plans. Issues with design changes to the Donato residence and interpretation by the Zoning Official pertaining to same are still being discussed at the Planning Board level. Mr. Whitlock is seeking clarification on his role as the zoning official and enforcement officer. Owner of the Rocky Hill Inn appeared at the Planning Board meeting seeking direction on their application. The applicant was advised that the application was denied without prejudice, and there would be a need to re-apply to the Board for the wall and light project. An interpretation is being sought as to whether the applicant is in need of variance relief for the wall and lights. Applicant was also advised that their escrow account is in a deficit and needs to be replenished. Mayor Zimmerman advised that a meeting is being scheduled with Mr. Whitlock to define the role and responsibilities of the zoning official position as the enforcement officer.

Grants Committee - Council member Hallman advised that the Borough's application for the 2009 County Energy Audit program was approved for all three buildings, Borough Hall, Rescue Squad, and Fire House. Letter dated 4/8/09 from Freeholder Fontana confirming the acceptance of the application was entered into the record. Information regarding the BPU Energy Program will be posted on the website for informational purposes to residents. Council members Hallman and Pausch will also be exploring the PSE&G grant opportunity relating to energy production currently offered to municipalities.

Other - Attorney Cruz related that the Appellate Court has upheld the decisions of Mayor and Council and the Planning Board in regard to the litigation case involving Rocky Hill Citizens for Responsible Growth v. Rocky Hill Borough et als. The decision will be of case law value. There is a 20 day appeal period to file a notice of petition with the NJ Supreme Court from the date of decision (4/8/09). Mayor Zimmerman expressed his appreciation to Attorney Cruz and all others involved in defending the suit. Councilman Hallman requested that a complete accounting of costs associated with this suit be made available. Attorney Cruz also reported that in regard to a class action suit filed several years ago, Re: Constantine v. Bass River regarding court discovery, the Appellate Division affirmed the Trial Court's decision to dismiss the suit.

SPECIAL BUSINESS

Resolution 2009-32 - Temporary Emergency Appropriation Budget - Motion was made by Hallman with a second by Banks for the approval of the emergency appropriation budget resolution. Motion carried on roll call vote - all ayes.

Execution of Contract for Animal Control Services with the Township of South Brunswick for the year 2009 - Authorization of Mayor's Signature - E-mail correspondence was received from Board of Health President advising that the Board of Health approved the contract and recommends the authorization of the signature of the Mayor on same. Motion was made by Goldman with a second by Hasser authorizing the Mayor's signature on the contract. Motion carried on roll call vote - all ayes.

Resolution of Intent #2009-33 - Rocky Hill School Board - Retainer agreement was received from Anthony Sciarrillo, Esq. of Lindabury, McCormick, Estabrook & Cooper P.C. in response to decision to pursue a feasibility study for the consideration of the consolidation/regionalization of the Borough of Rocky Hill School District. The study will be done at the rate of \$165.00 per hour not to exceed \$3,000.00. Motion was made by Hallman with a second by Banks for the approval of the resolution of appointment and contract contingent upon certification of funds by the CFO. Motion carried on roll call vote - all ayes.

Approval of Towing Operator License - Somerset Hills Towing - Application was received and distributed. Insurance certification and background check authorization by South Bound Brook Police Department was received. Motion was made by Hallman with a second by Hasser for approval of the license. Motion carried on roll call vote - all ayes. In response to inquiry from former Mayor Morren as to what towing agencies are being used by the NJSP, Borough Clerk Griffiths will follow-up with the NJSP. Request will be made for the use of the towing operators used on the Borough's rotation list.

UNFINISHED BUSINESS:

Draft Parks and Recreation Ordinance Discussion – A meeting was held with representatives from Montgomery Township. Discussion focused primarily on the fees established in the Township's ordinance. Discussion to be continued on the ordinance. The recreation agreement with the Township was also discussed. Several options were offered by the Township to include charges to the Borough's residents for services, but an agreement on the options provided was not reached. Discussion to be continued.

NEW BUSINESS:

Rocky Hill Strawberry Festival – The owners of Restaurant One 53 requested to hold a joint event, a Strawberry Festival, on the same day as the Bike Race. They have suggested that fireman's field or Panicaro Park be used for local businesses to set up booths to offer refreshments/goods to those attending the event. A portion of the proceeds would be donated to the Fire Department. It was the consensus that a joint event with the Bike Race could be advantageous for the cause. The restaurant requested permission to apply to the Division of Alcoholic Beverage Control to obtain a Special Affairs Permit. Motion was made by Hallman with a second by White authorizing the owners of One 53 to proceed with procuring the permit from ABC provided that the provisions of the permit are adhered to and an insurance certificate is provided. Motion carried on roll call vote – all ayes.

Request for Use of Borough Hall – RHCNS 50th Anniversary Celebration – Request was made by Diane Coppola, President, Rocky Hill Cooperative Nursery School for the use of Borough Hall to include the grounds for their 50th anniversary celebration to be held on May 2, 2009. Motion was made by Hallman with a second by Goldman approving the request. Motion carried on voice vote – all ayes; White-abstain.

COMMUNICATIONS:

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

- Letter dated 4/20/09 from DEP, Re: Storm water Permit regulations pertaining to the washing of municipally owned vehicles and equipment;
- Notice of Municipal Land Use Center Seminar – Stoking Sustainability Fire to be held 6/5 and 6/6/09;
- Email dated 4/20/09 from Somerset County, Re: Curbing Hunger Month Proclamation – Mayor Zimmerman will prepare a proclamation in support of the Curbing Hunger Inc., Food Drive.;
- Email dated 4/20/09 from Marj Yuschak, Re: Report on Earth Day Clean-Up. Thank you was expressed to all participants. Request was made for a teenage volunteer to take over the event from resident Rachel Bristol.

FINAL PUBLIC COMMENT

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

RESOLUTION 2009-34 – RETIRE INTO EXECUTIVE SESSION

Resolution 2009-34 was read into the record by Borough Clerk Griffiths. Nature of the subject to be discussed: Contract Negotiations – Rocky Hill Cooperative Nursery School Lease Renewal – Motion was made by Hallman with a second by Banks to enter into executive session. Council member White was recused from the session due to a conflict with the nature of the subject discussed. Motion carried on roll call vote – all ayes. (9:20 PM)

RESULTS OF EXECUTIVE SESSION (IF ANY)

(9:28PM)

Results of executive session not open to public at this time.

ADJOURNMENT:

Motion was made by Goldman with a second by Hasser to adjourn the meeting at 9:28 PM. All voted in favor of adjournment.

Respectfully submitted:

Donna M. Griffiths, RMC
Borough Clerk