

Minutes of the Regular Meeting of the Mayor and Council held on Thursday, May 3, 2018 at 8:00 p.m. at the Upper Saddle River Borough Hall.

Moment of Silence and Pledge of Allegiance was led by Council President DeBerardine.

Councilman Durante read Proclamation declaring the First Friday in June as National Gun Violence Awareness Day.

Pursuant to the Open Sunshine Act P.L. 1975, c. 231, proper notice of this meeting has been provided by submitting appropriate notice to The Ridgewood News and The Record on December 19, 2017 by Fax and mail in which the time, place and purpose of the meeting was set forth.

RULE 1. Roll Call:

| | | |
|--------------|----------------------|---------|
| Mayor | Joanne L. Minichetti | Absent |
| Councilman | Roger DeBerardine | Present |
| Councilman | Steven DiMartino | Present |
| Councilman | Jonathan Ditkoff | Present |
| Councilman | Vincent M. Durante | Present |
| Councilwoman | Joanne Florio | Present |
| Councilman | Thomas Hafner | Present |

RULE 2. Minutes of April 5, 2018 were delivered to all members of the governing body and posted on the bulletin board and were unanimously approved following a motion by Councilman Durante, seconded by Councilwoman Florio.

Roll Call: Ayes: Council members DeBerardine, DiMartino, Ditkoff, Durante, Florio, Hafner. Nays: None.

RULE 3. Borough Clerk's Report:

The Borough Clerk's office received the following fees for the month of April, 2018 and deposited them with the Collector/Treasurer:

| | |
|-------------------|------------------|
| Landscaper Permit | \$2092.00 |
| Copies | 10.35 |
| Peddlers License | 10.00 |
| Garage Sales | 16.00 |
| Total | <u>\$2128.35</u> |

The Borough Clerk's office issued 15 licenses for the month of April. \$30.00 was forwarded to the NJ Department of Health for the Pilot Clinic and Animal Control Fund.

Proof of Publications were received for:

- (1) Res. #55-18 - Adoption of 2018 Municipal Budget.
- (2) Adoption of Ord. #1-18-Bond Ord., Capital Improvements
- (3) Adoption of Ord. #2-18-Acquisition of property
- (4) Adoption of Ord. #3-18-Exceed CAP-COLA

- (5) Introduction of Ord. #4-18 - Subdivision/Site Plan
- (6) Introduction of Ord. #5-18 - Leasing of property
- (7) Resolution #62-18 - Professional Services, Boswell Eng.

RULE 3. Borough Clerk's Report:

Police: Report for the month April was received and filed.

DPW: Report for the month of April was received and filed.

Fire Dept: Report for the month of April was received and filed.

Library: Report for the month of April and Minutes of 4/18/18 were received and filed.

Youth Guidance Council: Minutes of 4/6/18 were received and filed.

Borough Official's Report:

Construction Code Official: Report for the month of April was received and filed.

Municipal Court: Report for the month of March was received and filed.

RULE 4. Communications, Petitions & Bills:

NWBUA public hearing notice re Connection fees & Minutes of 3/20/18.

Borough of Ramsey public hearing notice proposed Housing Element.

Borough of Montvale public hearing notice re Affordable Housing Fund.

Resolutions from Mahwah and Paramus.

Councilman DiMartino presented bills in the amount of \$5,694,421.32.

A motion by Councilman DiMartino, seconded by Councilman Durante to pay bills in the amount of \$5,694,421.32 was unanimously approved by all Council members present. Council President DeBerardine declared bills approved for payment and ordered checks drawn.

Roll Call: Ayes: Council members DeBerardine, DiMartino, Ditkoff, Durante, Florio, Hafner. Nays: None.

RULE 5. Unfinished Business:

Mr. DeBerardine read for the second time: (Ord. #4-18)

"AN ORDINANCE TO AMEND CHAPTER 126 OF THE CODE OF THE BOROUGH OF UPPER SADDLE RIVER ENTITLED SUBDIVISION AND SITE PLAN REVIEW".

Councilman DeBerardine opened the public hearing; there being no comments, hearing was closed.

Resolution by Councilmen DeBerardine, seconded by Councilman DiMartino:

"AN ORDINANCE TO AMEND CHAPTER 126 OF THE CODE OF THE BOROUGH OF UPPER SADDLE RIVER ENTITLED SUBDIVISION AND SITE PLAN REVIEW" was introduced at a Regular meeting of the Mayor and Council on April 5, 2018 and passed its

first reading. After public hearing held on May 3, 2018, it passed its second and final reading and was duly adopted by the Council and approved by the Mayor and shall take effect when published according to law.

Roll Call: Ayes: Council members DeBerardine, DiMartino, Ditkoff, Durante, Florio, Hafner. Nays: None.

Councilman Durante read for the second time: (Ord. #5-18)

"AN ORDINANCE TO AUTHORIZE THE LEASING BY THE BOROUGH OF CERTAIN REAL PROPERTY KNOWN AS BLOCK 1112, LOT 11 AS DEPICTED ON THE TAX ASSESSMENT MAP FOR MUNICIPAL PURPOSES".

Councilman DeBerardine opened the public hearing; there being no comments, hearing was closed.

Resolution by Councilman Durante, seconded by Councilwoman Florio:

"AN ORDINANCE TO AUTHORIZE THE LEASING BY THE BOROUGH OF CERTAIN REAL PROPERTY KNOWN AS BLOCK 1112, LOT 11 AS DEPICTED ON THE TAX ASSESSMENT MAP FOR MUNICIPAL PURPOSES" was introduced at a Regular meeting of the Mayor and Council on April 5, 2018 and passed its first reading. After public hearing held on May 3, 2018, it passed its second and final reading and was duly adopted by the Council and approved by the Mayor and shall take effect when published according to law.

Roll Call: Ayes: Council members DeBerardine, DiMartino, Ditkoff, Durante, Florio, Hafner. Nays: None.

RULE 6. New Business:

CONSENT AGENDA: All items listed with an asterisk (*) are considered to be routine and non-controversial by the Council and shall be so approved. There will be no separate discussion of these items unless a Council member or citizen so requests, in which case the item will be considered in its normal sequence.

A motion to approve Consent Agenda by Councilman Hafner, seconded by Councilman Ditkoff was unanimously approved by all Council members present.

Roll Call: Ayes: Council members DeBerardine, DiMartino, Ditkoff, Durante, Florio, Hafner. Nays: None.

*Resolution #67-18

WHEREAS, by resolution dated October 26, 2017, site plan approval and related variances and waivers were granted to Porven Real Estate, Inc. ("Porven" or "Developer") relating to premises known as Block 1002, Lots 4.01 and 4.02 and located at 600 Route 17 North, which approval permits an addition to the warehouse to the easterly portion of an existing structure, an addition to the northerly portion of the existing structure, and an office addition; and

WHEREAS, a Developer's Agreement has been prepared in accordance with a condition of the aforesaid approval; and

WHEREAS, the Borough Engineer has reviewed the bond estimate provided by the Developer and has approved same, which bond estimate will serve as the basis for the providing of performance guarantees by the Developer.

NOW THEREFORE BE IT RESOLVED that Mayor Joanne L. Minichetti and Borough Clerk Rose Vido be and are hereby authorized to execute the Developer's Agreement on behalf of the Borough.

*Resolution #68-18

WHEREAS, the Borough of Upper Saddle River requires professional auditing services for the LOSAP program for the year 2018; and

WHEREAS, the Borough of Upper Saddle River requires the resolution authorizing the award of contract for "Professional Services" without competitive bids must be publicly advertised;

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Upper Saddle River as follows:

- 1) The Mayor and Council do hereby engage the services of:

Lerch, Vinci & Higgins, LLP
17-17 Route 208
FairLawn, New Jersey 07410

All to serve at the pleasure of the Council at a cost and hourly rate as set forth in the Agreement for additional services.

2) The engagement of such services is made without competitive bidding under the provisions of N.J.S.A. 40A:11-51 which excepts from competitive bidding "Professional Services" rendered by persons authorized by law to practice a recognized profession.

BE IT FURTHER RESOLVED that the Mayor and Borough Clerk be and are hereby authorized to execute a contract for such services for the year 2018.

*Resolution #69-18

WHEREAS, there is presently pending in the Tax Court of New Jersey a certain matter entitled, "Attilio and Nicolina Del Verme v. Borough of Upper Saddle River", Docket Nos. 005808-2017 and 002577-2018, which matters involve appeals of the assessment on certain premises known as Block 1113, Lot 2.05 and being more commonly known as 18 Sunflower Drive, for the 2017 and 2018 tax years; and

WHEREAS, the parcel is assessed for the 2017 and 2018 tax years at \$1,300,000.00; and

WHEREAS, said appeals were filed to contest the assessment on the property for the 2017 and 2018 tax years.

NOW THEREFORE BE IT RESOLVED by the Mayor and Council of the Borough of Upper Saddle River that it does hereby authorize settlement of the above-captioned appeals based upon the following terms and conditions:

1. The Stipulation of Settlement shall provide that the assessment for the 2017 and 2018 tax years on said parcel shall be established at \$1,200,000.00.

2. Plaintiffs agree to waive interest due on the refund in connection with this settlement. In addition, any refund due the property owners shall be payable in the form of a cash refund or credit against future taxes due for the first quarter following the entry of judgment, at the option of the Borough.

BE IT FURTHER RESOLVED that the Borough attorney, Robert T. Regan, Esq., be and is hereby authorized and directed to execute any and all documents necessary to effectuate the terms of the within settlement.

*Resolution #70-18

WHEREAS, the Borough and Mack-Cali Realty, L.P. ("Developer") entered into a Settlement Agreement dated April 7, 2016 ("the Settlement Agreement") which permits Developer to construct on property known as Block 601, Lot 1, being more commonly known as 1-15 Lake Street ("the property") a total of 208 dwelling units, inclusive of 22 affordable housing units ("the Development"); and

WHEREAS, the Development requires, in addition to the 52,000 gallons per day ("GPD") for sewer treatment capacity as set forth in the 1979 Agreement between the Borough, the Borough of Ramsey and others, an additional capacity or daily flow of 9,170 GPD ("the additional capacity"); and

WHEREAS, the Settlement Agreement, at Paragraph IV(B), obligates the Borough to provide this additional capacity to permit the Development to be constructed on the property; and

WHEREAS, the Borough has acquired the additional capacity from Porven Real Estate, Inc. ("Porven") pursuant to an Assignment and Assumption Agreement.

NOW THEREFORE BE IT RESOLVED by the Mayor and Council of the Borough of Upper Saddle River that it does hereby authorize the assignment of the Borough's rights to 9,170 GPD of the total additional capacity acquired from Porven to the Developer; and

BE IT FURTHER RESOLVED that the Council President, or his designee, and the Borough Clerk be and are hereby authorized to execute all necessary documents to transfer the additional capacity as set forth above.

*Resolution #71-18

WHEREAS, the Borough of Upper Saddle River is in need of a part-time Tax Assessor; and

WHEREAS, Anthony Rinaldi is in possession of a Certified Tax Assessor License from the State of New Jersey; and

WHEREAS, the Mayor and Council is desirous of appointing Anthony Rinaldi as Tax Assessor;

NOW, THEREFORE, BE IT RESOLVED, that said position shall be a permanent part-time position effective 4/4/18-6/30/18; and for a term pursuant to N.J.S.A 40A:9-148 for four (4) years from 7/1/18 with term to expire 6/30/22; ; Mr. Rinaldi shall be paid in accordance with the Upper Saddle River salary guides.

BE IT FURTHER RESOLVED, that the duties of the aforesaid position shall be as set forth in the State Statutes and the job description and functions of the Borough of Upper Saddle River. Furthermore, that said appointment shall be subject to Chapter 16 of the Borough Code, personnel policies, practices and regulations as well as applicable State agencies having jurisdiction.

*Ordinance #8-18

"AN ORDINANCE TO VACATE AND EXTINGUISH THE BOROUGH'S RIGHTS IN AN EASEMENT FOR PEDESTRIAN TRAFFIC RELATING TO PREMISES KNOWN AND DESIGNATED AS BLOCK 302, LOT 16 AS DEPICTED ON THE BOROUGH TAX MAP".

*Approve Fire Department membership of John Gibson and Robert Fischer.

*Appoint Lucas Gallo to serve as Municipal Humane Law Enforcement Officer.

*Appoint Merri Stein Gurian to fill unexpired on the Bd. of Health to 12/31/19.

Councilman DiMartino read for the first time: (Ord. #6-18)

"AN ORDINANCE TO AMEND CHAPTER 150 OF THE CODE OF THE BOROUGH OF UPPER SADDLE RIVER ENTITLED ZONING".

Resolution by Councilman DiMartino, seconded by Councilman Durante:

"AN ORDINANCE TO AMEND CHAPTER 150 OF THE CODE OF THE BOROUGH OF UPPER SADDLE RIVER ENTITLED ZONING" was introduced at a Mayor and Council meeting on May 3, 2018 and passed its first reading and will be considered for final passage at a meeting of the said Mayor and Council to be held on June 7, 2018 at 8:00 PM at the Borough Hall, 376 W. Saddle River Road, Upper Saddle River, NJ, at which time and place all persons interested will be given an opportunity to be heard concerning same.

Roll Call: Ayes: Council members DeBerardine, DiMartino, Ditkoff, Durante, Florio, Hafner. Nays: None.

Councilman Ditkoff read for the first time: (Ord. #7-18)

"AN ORDINANCE TO AMEND CHAPTER 102 OF THE CODE OF THE BOROUGH OF UPPER SADDLE RIVER ENTITLED PROPERTY MAINTENANCE".

Resolution by Councilman Ditkoff, seconded by Councilman Durante:

"AN ORDINANCE TO AMEND CHAPTER 102 OF THE CODE OF THE BOROUGH OF UPPER SADDLE RIVER ENTITLED PROPERTY MAINTENANCE" was introduced at a Mayor and Council meeting on May 3, 2018 and passed its first reading and will be considered for final passage at a meeting of the said Mayor and Council to be held on June 7, 2018 at 8:00 PM at the Borough Hall, 376 W. Saddle River Road, Upper Saddle River, NJ, at which time and place all persons interested will be given an opportunity to be heard concerning same.

Roll Call: Ayes: Council members DeBerardine, DiMartino, Ditkoff, Durante, Florio, Hafner. Nays: None.

A motion by Councilman Durante, seconded by Councilwoman Florio to approve an Eagle Scout project presented by Boy Scout Colin Arbar:

Roll Call: Ayes: Council members DeBerardine, DiMartino, Ditkoff, Durante, Florio, Hafner. Nays: None.

RULE 7. Public Comments:

Council supported Ms. Barbara Vitale, 295 Lake Street, request to put up orange ribbons proclaiming June 1 as National Gun Violence Awareness Day.

Mr. Richard Medina, 295 Lake Street, asked questions regarding remediation procedures at the Apple Ridge site and said a number of residents are concerned over the run-off into streams since they all have wells. He asked if wells located in adjoining sites could be tested at Toll Brothers expense. Borough Engineer Kevin Boswell explained that two remediation actions were taken last year and soil remediation was completed in December of 2017. He said at the present time, there are no outstanding issues that would require additional site remediation. As to testing of the wells Mr. Boswell said it would be difficult to go back and determine the cause of any contamination found in the water. Mr. Boswell asked Mr. Medina to submit a list of his concerns which he would address.

Ms. Navir Beylarian, 242 W. Saddle River Road, asked if the Council considered the SALT bill that allows for a charitable deduction to pay for local municipal services i.e. education, police services. Councilman Ditkoff said they have been in constant communications with Congressman Gottheimer who supports the bill but there are some implications to consider and to determine its need and benefits.

Mr. Erik Friis, 4 Sparrowbush Road, said he did some research regarding levels of arsenic in water and soil. He said levels of MCL are set by the EPA and NJDEP which are more stringent for water and less stringent for soil. Mr. Friis said the Bergen County Soil Erosion Commission indicated they have no control over soil contamination and he reported on the amount of muddy water that can be pumped as long as it is filtered. Mr. Boswell responded that filters are in place but invisible and that they reduce the amount of sediment entering the waterways. He said the soil was overwhelmed by the amount of rain in the month of April, but that there are multiple basins and swales to hold back the soil. He explained the remediation process was done in stages in a checkboard pattern in quadrants to blend the soil, which was then tested to make sure there was no contamination before moving on to the next quadrant.

Mr. Robert Santomarcio, 30 Ripplewood Dr. and Mr. Roberto Calase, 26 Ripplewood Dr., said the brook on Mr. Santomarcio's property was dredged by the DPW about three years ago, but that the pipe now backs up and has caused sink holes in the area specifically on Mr. Calase's property. Borough Engineer Boswell will make a site inspection and submit his comments and recommendations.

Mr. & Ms. Ohanian, 10 Grist Mill Road, asked that the Council have a better form of communication such as an alert system to inform residents. He said he was also concerned with the impact of multi-family housing and looks for more transparency. Councilman Ditkoff stated that the Council depends on its professionals, the eruv settlement agreement is posted on the Borough's website and residents are encouraged to attend meetings. Ms. Ohanian said water is coming from surrounding towns and that you have to go deep down to test the sediment and residue.

In response to Mr. DeGregorio, 32 Shadow Road, Mr. Boswell explained that blending dilutes the soil in order to conform to Federal regulations. He pointed out 700 samples were taken at the site and all met NJ Soil Conservation, Land Use Enforcement and LSRP requirements. In response to Mr. DeGregorio's question, Mr. Boswell said septic systems are regulated by State code and that the number of bedrooms dictate the septic size.

Mr. John Mattaris (phonetic), Blue Hill Terrace, Mahwah, NJ, said the Dept. of Agriculture is proposing negative backyard beekeeping rules and asked the Council to pass a resolution opposing the DOA regulations. Mr. Mattaris will send follow-up information.

RULE 8. Adjournment:

A motion to adjourn by Councilman Durante, seconded by Councilman DiMartino was unanimously approved by all Council members present. Meeting adjourned at 9:35 p.m.).

Respectfully submitted,

Rose Vido, RMC
Borough Clerk