MINUTES OF THE PEAPACK & GLADSTONE BOROUGH COUNCIL FEBRUARY 10, 2015, COUNCIL CHAMBERS REGULAR MEETING

The Borough Council of the Borough of Peapack & Gladstone, County of Somerset, State of New Jersey, convened in a regular session meeting on Tuesday, February 10, 2015, at 7:30 p.m., in Council Chambers in the Municipal Complex, located at 1 School Street, Peapack, New Jersey 07977.

NOTICE OF MEETING

The following statement was read by the Borough Clerk:

Adequate notice of this meeting of the Mayor and Borough Council of the Borough of Peapack and Gladstone was given to the Courier News, Newark Star Ledger and the Bernardsville News on December 25, 2014, was posted at the Municipal Complex, School Street, the Peapack Post Office, Main Street, Peapack and the Gladstone Post Office, Main Street, Gladstone, New Jersey on December 25, 2014, and was mailed on December 25, 2014, to all those people who have requested individual notice and paid the required fee.

FLAG SALUTE

Mayor Muller led the salute to the flag.

ROLL CALL

On the call of the roll, the following were present:

William Muller, Mayor Gian Paolo Caminiti Mark Corigliano Gerald J. Gunning T. William Simpson Royal Smith Anthony Suriano

Also present on the dais were Borough Clerk/Administrator Hector A. Herrera and Borough Attorney John Bruder.

MINUTES

A motion by Councilman Simpson that the reading of the minutes be dispensed with, and that the minutes of the Reorganization Meeting of January 2, 2015; Regular Meeting of January 13, 2015; and the Special Joint Meeting with the Land Use Board of January 13, 2015, stand approved, with corrections, as submitted by the Borough Clerk to the Mayor and Borough Council. Councilman Smith seconded that motion.

On call of the roll, the following vote was cast:

AYE: Caminiti, Corigliano, Gunning, Smith, Suriano

NAY: None ABSENT: Simpson ABSTAINED: None

PUBLIC COMMENT FOR NON-AGENDA ITEMS

Mayor Muller announced this is the portion of the meeting for the public to inquire about matters they would like discussed but do not appear on the agenda.

Peter Churchill, 45 Mendham Road, stated he recently learned there is not a Borough ordinance requiring snow removal from sidewalks in front of residential lots. He stated when residents do not clear the snow from the sidewalks, it can force people who are using the sidewalks to walk in the streets which can be a dangerous situation.

Mr. Churchill stated it was his understanding the reason the Borough did not have an ordinance requiring the removal of snow from sidewalks was because of the potential liability if the sidewalks we not adequately cleaned however, he stated there was potential liability as well if property owners did not clean their sidewalks. He stated a litigious-type person would file a law suit regardless of the condition of the sidewalk.

Councilman Simpson stated the Borough owns the sidewalk, not the resident. Therefore, as long as the resident does not attempt to clean the sidewalk, the resident is not liable. Mr. Churchill disagreed with that statement. Councilman Gunning stated there is case law to support that no liability can be assigned to the resident who does not attempt to clean the sidewalk. Councilman Gunning further stated that it could be argued the resident made the condition of the sidewalk worse by improperly cleaning it.

Mr. Churchill stated the ordinance could be enforced by the residents. He stated the Borough could set up an email address where residents could report sidewalks that had not been cleaned after snow events.

Mr. Churchill stated that neighbors should take care of shoveling/cleaning for the elderly; and those who are unable to clean sidewalks themselves or otherwise should hire someone to do it for them.

Mr. Churchill stated that 289 municipalities have an ordinance requiring the removal of snow from the sidewalks. He stated he felt it was a good ordinance that would make life easier for the people in the Borough because there are many people who walk around. He asked the Borough Council to consider adopting an ordinance. He further stated that if the Borough did not adopt an ordinance requiring the cleaning of sidewalks after snow events, he felt he would like to see electronic signs around the Borough urging residents to do so.

Mayor Muller stated that he would like to place this discussion on the next Borough Council meeting agenda (2/24/15) as a discussion item.

Mr. Bruder stated that although commercial properties were required to clean sidewalks because of an imposed liability, it would be a policy decision of the Borough Council to require residential cleaning of sidewalks.

Abbie Sorge, 15 Hillcrest Drive, stated she was in favor of the Borough adopting an ordinance requiring the residential cleaning of sidewalks.

PRESENTATIONS

TRAILS ADVISORY COMMITTEE

Peapack & Gladstone Trails Advisory Committee Chairman Ron Kennedy gave a presentation on the committee's activities. He discussed the committee's efforts to link with trails the open spaces the Borough acquired in the 1990's.

Mr. Kennedy outlined the committee's efforts that connected several open space areas, including Komline and Liberty Park, in the northern portion of the Borough that formed a loop that was over three-miles long.

Mr. Kennedy reviewed the committee's desire to link the southern portion of the Borough eventually to Natirar Park. He informed Council the most challenging part of the plan is the need for a pedestrian bridge to cross over the Peapack Brook. He stated he does not have an exact dollar amount to install this crossing but it would not cost as much, or require the same amount of Department of Environmental Protection permits; as a traditional crossing because it would be a nonvehicle bridge. He estimates a cost around \$100,000.

Mr. Kennedy informed Council the Trails Advisory Committee was also looking at opportunities to enhance the Borough's trail system by exploring the possibility of connecting it to trail networks outside of the Borough; Patriots Path to the north and Bedminster trails to the south.

Mr. Kennedy stated the four things the Committee was working on this year were:

- 1. trail signage and continuing maintenance
- 2. education
- 3. trail mapping
- 4. expansion of trails to Natirar Park

Council President Suriano asked Mr. Kennedy if there was anything the Borough could do to help the committee's goals and objectives. Mr. Kennedy stated that he would ask for assistance with maintenance if it became too cumbersome for the volunteers. He also stated he needed to do more research on the requirements and funding for the pedestrian bridge. After that, he would ask for Council to assist in discussions with the Somerset Freeholders.

Jersey Energy Group / Concord Energy Services

Concord Energy Services Vice President of Energy Services Vicky Molloy gave a presentation to Council regarding the New Jersey Residential Energy Aggregation Program. She stated Somerset County, the lead agency, established an energy cooperative last year to promote electricity savings for residents. With the adoption of an ordinance, municipalities are able to join the cooperative.

Ms. Molloy stated that Jersey Energy Group is licensed by the New Jersey Board of Public Utilities. In this program, it will implement, manage and oversee the residential energy aggregation program for electricity within the County, including overseeing the competitive procurements from third party suppliers. Ms. Molloy stated the general saving to the end user was between 4% - 15%.

Ms. Molloy stated there are protections for the residents; specifically that residents will never pay more under the program than they would with the JCP&L. If the default rate goes down, the winning company must match the lowest rate. Additionally, residents in participating towns who are automatically entered into the program, have the option to "opt out" at any time.

Mayor Muller asked Ms. Molloy what other municipalities in Somerset County had enrolled in this program. Ms. Molloy stated she did not currently have that information but would provide it to the Borough. Mayor Muller asked about the length of the contract. Ms. Molly stated by statute, the contract could not go beyond 24 months. Mayor Muller asked who would field resident inquiries about the program. Ms. Molloy stated JEG would handle all customer service.

Councilman Caminiti asked the potential savings. He confirmed the savings came from the supply portion of the bill and not the transmission/distribution portion of the bill. He asked Ms. Molloy if there was data on the progression of the increase in the cost for generation charges as opposed to an increase in cost of supply charges. Councilman Corigliano asked if she could narrow the scope to JCP&L. Ms. Molly said she did have that information and would get it to the Borough. Mr.Caminiti asked about how the fees were assessed. He confirmed the rate for supply was locked in with the bid, would not fluctuate and was not linked to the transmission/distribution portion. He also confirmed JEG's commission was paid from the supply portion of the transmission/distribution portion of the bill. Additionally, he confirmed JEG's commission was paid by the supplier out of the supply portion of the bill.

Councilman Smith asked if residents would be able to utilize an Equal Payment Plan (budget bill) with this program. Ms. Molloy stated it is possible. Mr. Smith asked where the energy was produced. Ms. Molloy stated the energy in this region PJDM (Pennsylvania New Jersey, Delaware, Maryland) is generated in Western Pennsylvania. She informed him that JCP&L does not own any generation plant in New Jersey. They buy all their supply from the Basic Generation Service auction.

Council President Suriano asked how long the aggregation process has been available to the residents. Ms. Molloy stated that electricity became deregulated in 2002 but was not really utilized for savings to the residents because the rates were low. She stated that in 2010, small commercial and residential users began making a choice on their suppliers. Councilman Suriano asked if she had statistics on how many residents opt out of the program. Ms. Molloy stated that 5.6% of residents opt out of the program. She stated she did not have information on how many residents opt into the program after it has been established.

Mayor Muller asked about a time line for the program. Ms. Molloy stated she hoped to have all of the ordinances from participating municipalities by March. After that, JEG would start the bid process and expect that consumers would be in the program by July.

Councilman Corigliano asked that if there were any fees to the consumer for opting out of the program and re-enrolling with JCP&L. Ms. Molloy stated there are no fees and the resident could actually go back and forth as many times between the successful bidder and JCP&L. She stated she did not know if any other third party supplier would charge anything. Councilman Corigliano asked how JEG was different from other firms who provide a similar service. Ms. Molly stated JEG had been appointed by Somerset County after a rigorous RFP process. Councilman Corigliano asked about the price match guarantee. Ms. Molloy stated that under the statutes that govern this program, a municipality cannot contract with a supplier unless it is a better rate that the utility rate. Councilman Caminiti clarified this program will only provide a better rate than the utility rate but does not guarantee a better rate than other third party suppliers.

Mayor Muller asked Ms. Molloy to work with Councilman Caminiti for the next steps of the program.

PEAPACK RESIDENTIAL

Council President Suriano recused himself from the following discussion at 8:55 p.m.

Doug Janacek, representing Peapack Residential, provided a brief overview of his client's request of the Borough Council to amend its ordinance to eliminate the age restriction from the Borough's Office Research Laboratory (ORL) Zone.

Otteau Valuation Group, Inc. President Jeffrey Otteau spoke on the behalf of Peapack Residential. Mr. Otteau reviewed the market analysis report on this project he prepared and summarized his findings. He stated the first part of his report was the development of an opinion as to whether the project, as currently approved with the age restrictions, would be feasible / marketable. Mr. Otteau stated the market for age restricted housing was very poor. Mr. Otteau summarized his conclusion that this project would not be financially viable (a lender would not finance it).

Councilman Smith asked if the project would be financially viable without the age restriction, using an age targeted approach, because of the price point. Mr. Otteau stated that although this is not one of the reports he prepared, in his opinion it would be viable.

The second part of his report was to determine who would be the typical occupant of this development without the age restriction. He reviewed the demographic statistics of the area. He stated more than half of all households in the area have one or two people. Additionally, more than 61% of households in the area (five-mile radius of site) do not have children under 18 living at home. He stated he obtained this information from the U.S. Census Bureau.

Mr. Otteau reviewed conditions for office space in the area and the State. He stated the conditions for this use in this area were even worse than the age restricted housing market in the area. Mr. Otteau stated there is currently 72 million square feet of available office space in New Jersey.

Mr. Otteau stated that although the real estate markets he mentioned are grim, there are bright spots in residential housing for products that are not widely available: multifamily luxury rentals; small lot single family housing in lower price points (higher density); and non-age restricted town houses.

Councilman Corigliano asked Mr. Janacek why his client came before the Land Use Board asking for an extension to build this project as opposed to pursuing a new marketing approach if conditions have not changed in the past few years. Mr. Janacek stated this property was more valuable with the approval.

Mr. Janacek confirmed Councilman Smith's question that if the Borough did not lift the age restriction, his client would not build this project.

Woodmont Properties Chief Executive Officer Eric Witmondt addressed Council regarding his company's development projects, specifically the development in Fairfield and Saddle River. He spoke about the demographics of the residents and the makeup of the families who are there. Mr. Witmondt spoke about the amenities at the Saddle River development that were targeted towards seniors. Mr. Witmondt clarified that he did not have a business agreement with Peapack Residential, and was coming before Council to provide information on a successful age targeted development that was comparable to the proposed site. Mr. Goldman confirmed this project would have a club house but would not have a pool.

Richard Redding discussed his reports and how he came up with an estimate on how many school-aged children would be in this development. He also provided information on how many school-aged children were in developments located in the area.

Mr. Goldman summarized the request of Peapack Residential to lift the age restriction and build a development marketed as age targeted.

Councilman Simpson asked if his understanding of the history of this project was correct in that the Borough granted approval to build a more densely populated development in exchange for the age-restriction requirement. Council confirmed he was correct and that this project was approved for 68 units. Additionally, due to environmental constraints, there would only be approximately 40 units that could be built using the closest residential zoning (R-8 is 10-acres lots). Councilman Simpson stated he was not opposed to the development because of school-aged children. He stated his opposition to the project was because he felt the proposal called for too many units in too small an area.

Mr. Goldman stated the project would not be financially viable if it had fewer units. Mr. Janacek reviewed the presentation and asked if Council would review a proposed ordinance that would lift the age restriction.

Mayor Muller opened the discussion/presentation to the public.

Tom Dill stated he liked this project. He stated he is a senior citizen who is interested in ratables and felt this project would be a good ratable that would help stabilize taxes.

Council decided to table the discussion to a later date, possibly the February 24, 2015, Council meeting.

PETITIONS AND COMMUNICATIONS:

Mayor Muller stated a resignation from Land Use Board Class IV Member Kingsley Hill and Land Use Board Class II Member David Disabato has been received.

These resignations were accepted by the Council.

Mayor Muller stated the Borough received an application has been received from Matheny Medical and Educational Center for its annual the Miles for Matheny event on May 31, 2015. Councilman Corigliano stated road closures would be minimal however, his only concern was making sure Matheny School and Hospital would pay for the cost of police and public works that would be billed to them separately. Additionally. Councilman Gunning asked the churches be notified to minimally disrupt Sunday services. Matheny School and Hospital President Dr. Sprott of Mathney stated he has already contacted all of the churches and business in the Borough.

This application was approved by the Council.

REPORTS OF COMMITTEES / RESOLUTIONS

FINANCE: (Suriano/Corigliano)

Discussion on salaries and outstanding budget appropriations.

Council President Suriano asked for a discussion regarding salary raises for Borough staff. He stated he needed Council input on what to use as a multiplier for the merit

increases based on a performance review. He used a multiplier of 2.5 which would give an employee who scored the highest rating (5) on the evaluation a 2.5% merit increase. An employee who scored a 3 would receive a 1.5% which is the cost of living allowance. This would be a \$17,529 increase to the salary line item of the budget.

Councilman Corigliano confirmed that raises were being assigned on an individual basis.

Councilman Smith stated he felt a 2.5% raise was generous given the current economic state. He cited social security was giving a 1.7% increase and that many Pfizer employees, the Borough's largest tax payer, has enacted a pay decrease.

Councilman Corigliano asked if Council wanted to reevaluate the rating system. Council discussed how department heads were rated.

Councilman Corigliano suggested Council use a separate multiplier for department heads and one for the rest of the employees in an effort to make considerations for employees who earn less money.

Council decided to defer the discussion on evaluations after review by the Human Resources Committee.

SANITATION/SEWER: (Smith/Caminiti)

No report

BOROUGH PROPERTY: (Corigliano/Smith)

Councilman Corigliano informed Council that he and Mr. Herrera met with a property auction company to explore the sale of the Komline house.

Councilman Corigliano informed Council the Borough received an application from the Borough Recreation Department to use the softball fields from April 1 through to June 20. Council provided its concurrence.

Councilman Corigliano informed Council the Borough received an application for a peddler's permit from a vendor who provides services based on the Verizon Fios system. Councilman Corigliano stated the application was incomplete and was not recommending it. He further stated the application was to be returned to the applicant and not accepted until it was properly completed.

Councilman Corigliano informed Council he met with representatives of the Friends of the Library regarding an agreement between the Borough and the Friends to redevelop/rehabilitate the library. He asked for and received Council concurrence to discuss the agreement with Mr. Bruder.

FIRE/INFORMATION SYSTEMS: (Simpson/Gunning)

Council discussed physical exams for the Borough's firefighters. Ron Hill stated that Dr. Campbell, who the members see on a regular basis, was not going to submit the bills for

the physicals to members' insurance. This was because the cost of the physicals was at a greatly reduced price than the doctor's other patients. Additionally, the doctor felt this was a burden to his office.

Council discussed if there was a possibility to submit these claims to insurance. Councilman Corigliano stated the Borough was being fiscally responsible and looking to make sure it was recouping all possible moneys from the physicals. Mr. Hill further stated that members of the fire company would not submit claims because members did enough for the Borough. He stated the members were not going to take time out of their day to fill out forms.

Councilman Gunning stated the fire company should consider going to another doctor. Councilman Simpson reiterated the doctor was giving the members a thorough physical at a heavily discounted price.

Councilman Smith stated that under the Affordable Health Care for America Act, all physicals were fully reimbursable and not subject to deductible.

Mr. Herrera provided Council with information that he has gathered after he was tasked by Council to research it last meeting. He stated that he reached out to the Borough's insurance broker, Hurley Insurance Agency, for more information but has not received any further information since. Mr. Herrera stated he reached out to the Boroughs of Bound Brook and South Bound Brook and learned that these Boroughs had made arrangements with local medical facilities to provide physicals. The costs of these physicals were less than \$200 per member and the Borough of Bound Brook did not send its members for an annual physical.

Council decided to defer the discussion until Mr. Herrera was ready to provide a full report.

Councilman Corigliano informed Council the bathroom fixtures that were donated to the Borough as part of the fire house renovations were taken back by the donor. Council discussed if the donation was ever formally accepted/recognized. Council tasked Mr. Herrera to research and ascertain if the donation was ever formally accepted and memorialized.

POLICE: (Gunning/Suriano)

Councilman Gunning informed the Council that Officer Keyes will be retiring in a few weeks and will have a retirement dinner on March 13, 2015, at the Basking Ridge Country Club. He stated he was researching previous retirements from the Borough and what types of gifts were given.

ROADS/TRANSPORTATION: (Caminiti/Simpson)

Councilman Caminiti informed Council he met with Borough Public Works Superintendent Rodney McCatharn regarding snow removal around the Borough's sidewalks and parking areas in front of businesses. Councilman Caminiti estimated the Regular Meeting February 10, 2015

overtime would cost around \$2,000 to complete the task. Council concurred to have Mr. McCatharn proceed within his budget.

LEGAL: (John E. Bruder, Esq.)

No report

MISCELLANEOUS COUNCIL BUSINESS:

The Mayor recommends the following appointment:

Brian Quinn Environmental Commission Alt 1 Term expires 12/31/16

The Council concurred on this appointment.

A RESOLUTION APPOINTING HECTOR A. HERRERA AS REGISTRAR OF VITAL STATISTICS

Councilman Corigliano moved to adopt resolution #038-15. Councilman Caminiti seconded that motion.

On call of the roll, the following vote was cast:

AYE: Caminiti, Corigliano, Gunning, Simpson, Smith, Suriano

NAY: None ABSENT: None ABSTAINED: None

Resolution #038-15 was adopted.

A copy of resolution #038-15 is appended to the official minutes.

A RESOLUTION AUTHORIZING AN AWARD OF CONTRACT TO NEW JERSEY CONSERVATION FOUNDATION OF FAR HILLS, NEW JERSEY, FOR OPEN SPACE CONSULTING SERVICES IN AN AMOUNT OF \$105 PER HOUR, NOT TO EXCEED \$10,000, FOR A TERM EXPIRING DECEMBER 31, 2015 Councilman Suriano recused himself at 11:44 PM

Councilman Smith stated he was very impressed with the New Jersey Conservation Foundation. Council discussed who would be monitoring the "not to exceed" \$10,000 number. Councilman Gunning stated New Jersey Conservation Foundation would be submitting bills. If it was going to exceed the \$10,000, it would come before Council to increase the funding.

Councilman Gunning moved to adopt resolution #035-15. Councilman Smith seconded that motion.

Mayor Muller opened the discussion to the public.

Farmland Preservation & Agricultural Committee member Anne van den Bergh asked if the New Jersey Conservation Foundation would be meeting with her committee. Council informed her it was part of the contract.

Open Space Advisory Committee member Rich Rampinelli stated he was looking forward to working with New Jersey Conservation Foundation on Open Space matters. Council discussed how Borough officials and volunteers would communicate with the New Jersey Conservation Foundation. Councilman Gunning stated the Council representatives to OSAC and to the Farmland Preservation & Agricultural Committee would communicate with New Jersey Conservation Foundation to have them appear at their respective meetings.

On call of the roll, the following vote was cast:

AYE: Caminiti, Corigliano, Gunning, Smith,

NAY: None ABSENT: None ABSTAINED: None

Resolution #035-15 was adopted.

A copy of resolution #035-15 is appended to the official minutes.

AUDITING OF CLAIMS:

Councilman Corigliano motioned that the payment of Interim Claims be approved and that all vouchers submitted this date, as per voucher list, be paid after proper audit. Councilman Caminiti seconded that motion.

On call of the roll the following vote was cast:

AYE: Caminiti, Corigliano, Gunning, Smith, Suriano

NAY: None ABSENT: Simpson ABSTAINED: None

ADJOURNMENT

On the motion of Councilman Corigliano, second by Councilman Gunning, the meeting adjourned at 12:03 a.m.

HECTOR HERRERA BOROUGH CLERK WILLIAM MULLER MAYOR Regular Meeting February 10, 2015

RESOLUTIONS

BOROUGH OF PEAPACK AND GLADSTONE

A RESOLUTION APPOINTING HECTOR A. HERRERA AS REGISTRAR OF VITAL STATISTICS

RESOLUTION NO. 038-15

WHEREAS, the Borough of Peapack and Gladstone desires to appoint Hector A. Herrera as the Registrar of Vital Statistics pending certification; and,

BE IT RESOLVED by the Borough Council of the Borough of Peapack and Gladstone, that Hector A. Herrera is hereby appointed as the Registrar of Vital Statistics pending certification.

BE IT FURTHER RESOLVED that a certified copy of this resolution shall be immediately provided to the State Department of Health & Senior Services. This Resolution shall take effect thirty days from the filing of a certified copy of this Resolution with the State Department of Health & Senior Services, unless the appointment is sooner approved in writing by the Department of Health & Senior Services.

Councilman Corigliano moved to adopt resolution #038-15. Councilman Caminiti seconded that motion.

On call of the roll, the following vote was cast:

AYE: Caminiti, Corigliano, Gunning, Simpson, Smith, Suriano

NAY: None ABSENT: None ABSTAINED: None

BOROUGH OF PEAPACK AND GLADSTONE RESOLUTION NO. 035-15

AUTHORIZING AN AWARD OF CONTRACT TO NEW JERSEY CONSERVATION FOUNDATION OF FAR HILLS, NEW JERSEY, FOR OPEN SPACE CONSULTING SERVICES IN AN AMOUNT OF \$105 PER HOUR, NOT TO EXCEED \$10,000, FOR A TERM EXPIRING DECEMBER 31, 2015

WHEREAS, the New Jersey Conservation Foundation has submitted a proposal to act as the Open Space Advisor for the Borough of Peapack and Gladstone, Open Space Committee and the Agricultural Advisory Committee, in the County of Somerset, and

WHEREAS, there exists a need for the performance of such advisory services, and

WHEREAS, funds are available for this purpose and have been certified by the local finance officer; and

WHEREAS, the Local Public Contracts Law, N.J.S.A.40A:11,1, et seq., requires that the resolution authorizing the award of contracts for "professional services" without competitive bids and the contract itself must be available for public inspection;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Peapack & Gladstone, in the County of Somerset, as follows:

- 1.) The Mayor and Clerk are hereby authorized and directed to execute an agreement with the New Jersey Conservation Foundation, a New Jersey nonprofit corporation, having its address at Bamboo Brook, 170 Longview Road, Far Hills, New Jersey 07931, for the term of February 10, 2015, to December 31, 2015.
- 2.) This contract, in the hourly amount \$105 per hour, not to exceed \$10,000, is awarded without competitive bidding as a "professional service" under the provisions of the Local Public Contracts Law, subject to N.J.S.A.40A:5-11, which states that "No local unit shall be required to advertise for bids of any of the work performed pursuant to 40A:5.4."
- 3.) A notice of this action shall be printed once in the Bernardsville News.

Councilman Gunning moved to adopt resolution #035-15. Councilman Smith seconded that motion.

Councilman Suriano recused himself at 11:44 PM

On call of the roll, the following vote was cast:

AYE: Caminiti, Corigliano, Gunning, Smith

NAY: None ABSENT: Simpson ABSTAINED: None