

**MINUTES OF THE REGULAR MEETING
OF THE MAYOR AND COUNCIL OF THE
BOROUGH OF SADDLE RIVER
HELD APRIL 18, 2011**

PRESENT: Mayor Raia, Council President Mutter, Council Members, Boardman, Mastriano, Murray, Toomey, Walenczyk, Borough Clerk Macari, Administrator Cuccia, & Borough Attorney Huntington

ABSENT:

PRESIDING: Mayor Raia called the meeting to order at 7:15 p.m.; Borough Clerk Macari read the following statement:

PUBLIC NOTICE: "Notice of this meeting in compliance with the Open Public Meetings Act Chapter 231 of the laws of 1975, has been given by posting a notice of the scheduled dates of all regular meetings of the Mayor and Council of the Borough of Saddle River on the bulletin board in the Municipal Building and in the office of the Borough Clerk and by emailing a notice thereof to the Ridgewood Newspapers and The Record on December 27, 2010.

NOTIFICATION OF FIRE EXITS

PLEDGE OF ALLEGIANCE

AWARDS AND CEREMONIES:

WORK SESSION:

MAYOR RAIA:

Mayors Conference: Mayor Raia stated that he plans to attend the Mayor's Conference next week and they will be discussing various topics that are applicable to the Borough of Saddle River.

Paperless Communication: Mayor Raia discussed the efficiency of communicating remotely and asked the Council to consider getting a cell phone with internet access in order to stay current on Borough issues.

Cell Tower: Mayor Raia stated that some residents are discussing the construction of the cell tower and he feels that the Borough took all the appropriate steps to insure that the residents were aware of this. He further stated that once the leaves are on the trees, it will not be as visible to neighboring streets.

ADMINISTRATOR CUCCIA

Update on Cell Tower: Administrator Cuccia distributed information to the Mayor and Council regarding the cell tower and he discussed the contents of this report in detail. He stressed the fact that the tower is a safe distance from both Wandell School as well as any neighboring homes. In addition, he discussed two articles published in the Bergen Record regarding this tower. Mayor Raia stated that he feels that the location of the tower is more favorable than it would be in a residential area of town. The tower on Route 17 was vandalized and this tower is critical for not only cell phone use, but emergency communications in the Borough as well.

COAH: Administrator Cuccia stated that the meeting was cancelled and asked Attorney Huntington to address the current status, which he did at this time.

2011 Capital Equipment Request: Administrator Cuccia distributed a report to the Mayor and Council outlining the requests and discussed this report in detail. Items for consideration for the Police Department include the replacement of a command vehicle, the replacement of the telephone/radio recording system and the acquisition of a license plate reader system. Chief McWilliams explained the license plate reader system at this time and stressed its benefit in the Borough. Items for consideration for the Fire Department include new gear racks and Scott SCBA 45 minute systems, which he explained to the Mayor and Council. The funding for these items was outlined at this time. It was decided that this Capital Equipment Request will be part of the May 16, 2011 Mayor and Council meeting agenda.

Report on SEM Bid: Administrator Cuccia stated that, on April 12, the Sustainable Energy Meeting (SEM) accepted bids for electricity supply services for members and he discussed this in detail.

Administrator Cuccia stated that he has been in contact with Orange and Rockland Electric regarding the installation of solar panels in the historic area of the Borough and has advised them that they need to find an alternative site for them.

COUNCIL REPORTS:

Council Member Walencyk stated that he attended a Landmarks Commission meeting on March 23, 2011 and discussed the premise of merging the Bishop House Foundation within the auspices of the Landmarks Commission. He obtained information regarding historical preservation and is continuing to gather information to be presented at the May 16, 2011 meeting of the Mayor and Council.

Council Member Murray stated that the financial report is in order and asked about police vehicles and road repairs on the report.

Council Member Boardman stated that he attended the Environmental Commission meeting on April 11, 2011 and addressed the issues discussed including the Waterford Gardens property and any alterations made to this property, proposed modifications of both the tree ordinance and septic ordinance and potential soil remediation on an East Saddle River Road property. In addition, he discussed the Saddle River Clean Up scheduled for April 30, 2011 and organized

by Tara Mastriano.

Council Member Mastriano stated that the Parks and Recreation Commission held a meeting and addressed field use at Rindlaub Park. In addition, she discussed pending applications for Open Space to do work on the Marker property and Rindlaub Park Field House renovations.

In addition, Council Member Mastriano stated that Saddle River Night will be held on June 4, 2011, followed by a concert series to be held on Thursday nights in the summer in the band shell in Rindlaub Park.

The Memorial Day Celebration was also addressed and plans are underway. A Grand Marshall must be chosen and Mayor Raia stated that he feels it should be a previous Mayor. Once a potential individual has been chosen, the Mayor and Council will be polled on the choice.

Council Member Toomey stated that he met with Administrator Cuccia, Council President Mutter and Borough Planner Richard Preiss to discuss the Saddle River Crossings Project and prioritized those items to be accomplished in order to proceed with the plans; the zoning ordinances must be amended in order to reflect the downtown historic district, a historical preservation commission must be established by ordinance and the implementation of the plan for the Crossings. Mr. Preiss is working on a draft of the zoning ordinance changes which should be available shortly for the Mayor and Council to review.

Council Member Toomey further stated that he along with Council Member Walenczyk met with the ordinance review committee on April 14, 2011 to address issues that must be amended in the code. Zoning Board Attorney David Rutherford also presented items to be addressed and he would like to see these items consolidated in order to prioritize and implement changes effectively.

A discussion took place regarding the R-1 Zone and this will be addressed by Mr. Preiss and the adoption of the Master Plan.

Mayor Raia stated that several of the issues being addressed by the zoning committee should result in lessening the criteria for residents when making minimal changes on their property such as the installation of a generator.

BOROUGH ENGINEER: Borough Engineer Spence discussed the improvements to Twin Brooks Road, stating that the design will be completed before the end of May and will then go out to bid. In addition, he is in the process of completing a permit application for the DEP in order to dredge the Saddle River to minimize erosion.

MUNICIPAL CLERK: Municipal Clerk Macari stated that Governor Christie is considering moving the Primary Election to June rather than February in order to save money.

INTRODUCTION OF ORDINANCES: There were none.

ADOPTION OF ORDINANCE(S):

ORDINANCE NO. 11-849-C

**AN ORDINANCE TO AMEND AND SUPPLEMENT CHAPTER 208, ENTITLED "WATER",
IN THE CODE OF THE BOROUGH OF SADDLE RIVER, NEW JERSEY**

Resolution # 58-11 Offered by Council Member Mastriano
Seconded by Council President Mutter
Roll Call Vote: AYES, Unanimous

OPEN TO THE PUBLIC:

CLOSED TO THE PUBLIC:

APPROVAL OF BILLS

Resolution # 59-11 Offered by Council Member Murray
Seconded by Council President Mutter
Roll Call Vote: AYES, Unanimous

RESOLUTIONS

All matters listed hereunder are considered routine in nature and will be enacted in one motion. Any Council Member may request that an item be removed for separate consideration. Considering approval of minutes, a yes vote will indicate a vote in favor of approval of the minutes of each meeting at which the Council Member was present and abstention with respect to the minutes of meetings at which such Council Member was not present.

Resolution by Council President Mutter
Seconded by Council Member Mastriano
Roll Call Vote: AYES, Unanimous

Explanation of Consent Agenda Items

At this time, Administrator Cuccia briefly explained the resolutions on the Consent Agenda.

A. Approval of Minutes: Regular Meeting of 3/21/11.

B. Resolution(s)

- R# 60-11 Refund for overpayment of taxes Blk 1403 Lot 13**
- R# 61-11 Redemption of tax sale certificate**
- R# 62-11 Supporting the Click it or Ticket Mobilization: 5/23/11 – 6/5/11**
- R# 63-11 Soil Movement Blk 1808 Lot 11, R. Banca**
- R# 64-11 Soil Movement Blk 1301 Lot 11, P Barbieri**

OPEN TO THE PUBLIC FOR CONSENT AGENDA ITEMS ONLY:

COMMITTEE REPORTS

Finance Report: Council Member Murray gave the report for March 2011.

Fire Report: Council Member Walencyk gave the report for February 2011.

Police Report: Council President Mutter gave the report for March 2011. He further stated that Officer Wells was in a car accident while on duty and sustained minor injuries; he has returned to his full duties. Additionally, Council President Mutter stated that the overtime figures are currently running below those anticipated.

Planning Board: Council Member Walencyk gave the report for April 2011.

Public Works: Council Member Walencyk gave the report for March 2011.

Board of Health: Council President Mutter gave the report for March 2011.

Const. & Zoning Enforcemnt. Council Member Boardman gave the report for March 2011.

Environmental Committee: There was no report at this time.

Zoning Board: There was no report at this time.

Landmarks Committee: Council Member Toomey gave the report for March 2011.

Parks and Recreation: There was no report at this time.

OPEN TO THE PUBLIC:

John Cunningham, 14 Eckert Farm Road stated that he has some concerns regarding the cell tower being so close to the school and would like to open this matter up for general conversation.

Mayor Raia stated that he would like the opportunity to present a summary of the facts regarding the cell tower to the public and did so at this time. He stated that the current tower is one foot lower than the tubular tower that was previously there. He further stated that the new tower is used for emergency communications as well as cell phone service, was widely published in the Bergen Record, bids were sought, and was presented to the Landmarks Commission prior to construction. This tower was discussed during at least eight Mayor and Council meetings since 2008, when this project was initially considered. He stressed the need for better communications with both the Police and Fire Departments for the safety and welfare of the residents of the Borough of Saddle River. It is located approximately 580 feet from

Wandell School and poses no health threat. He addressed the tower that currently exists on Route 17 and stated that its location is not optimum for emergency communications as well as problems with vandalization at that site.

Mayor Raia asked Chief McWilliams to discuss the need for the tower's proximity to the Police and Fire Complex and he did so at this time. He reiterated the need to have this tower adjacent to the complex in order to keep emergency response times to a minimum.

Mr. Cunningham asked what else this tower may be used for at this location and Administrator Cuccia addressed this issue. He stated that there currently is only one carrier on this tower and carriers have a right to petition to the Zoning Board of Adjustment in a municipality if there are gaps in service. Attorney Huntington addressed cellular tower vendors and pending lawsuits in other municipalities and reiterated that use must be granted.

Mr. Cunningham stated that he understood the location but still had health concerns with it being 580 feet from Wandell School, not being aware of exactly is being emitted from this tower. Attorney Huntington stated that there are federal regulations in place that deal with cell tower emissions and limit them.

Frank Ahearn, 2 Alford Drive, Saddle River asked who must approve T-Mobile coming onto the existing site and Attorney Huntington addressed this issue. Mr. Ahearn further stated that he owns several communication companies and did not feel this was researched sufficiently. He stated that he was told by Mayor Raia that this was a replacement however, the prior tower did not have cell capability. The current tower is substantially wider and has cell capability and Mr. Ahearn has submitted the T-Mobile contract to his attorney in order to gain an understanding of the details of how the Borough is contractually bound. He further stated that there were other locations for this tower that should have been considered but no one was asked. Mayor Raia reiterated that this was discussed publicly over a long period of time and reminded Mr. Ahearn that they exchanged emails regarding this issue. He stated that he was, in no way, trying to hide that there would be cell capability on this tower or mislead the public in any way. Mr. Ahearn contended that he was never made aware that this replacement tower would have cell capability in addition to the emergency communications.

Attorney Huntington stated that a telecommunications operator can prevail in litigation, typically with two sites, if a municipality does provide for adequate coverage in their town.

Mr. Ahearn stated that the town is five miles square and the two existing towers are less than a mile apart and Administrator Cuccia stated that there are also topography issues to deal with in Saddle River which must be considered when finding an adequate site for a tower.

Mr. Cunningham agreed that the Police and Fire Departments need updated communication equipment for the benefit of all residents but expressed his serious concerns over health issues, that we are not privy to at this time, with the children at Wandell School.

Council President Mutter asked Mr. Ahearn, since he is in the telecommunications business, if he is aware of any inherent health risks with emissions from cell towers at this time and he stated he does not have any proof at this time.

Mr. Ahearn reiterated that he owns several telecommunication companies and stated that there is no evidence to date that cell towers are health risks but he is concerned about the findings in the future. He further stated that when a telecommunication is valued from a financial side, they often refer to a term known as NIMBY (Not in My Backyard). He further stated that this tower is in his backyard as well as the Wandell School's backyard and he is astonished that this was approved.

Lisa Ahearn, 2 Alford Drive stated that she is concerned and emotionally upset that her children, who attend Wandell School, could be at risk as well as the fact that the tower is very close to her home. She further stated that she received a certified letter from a neighbor on Bayberry Drive that needs to seek a variance for work on their property and asked why neighbors close to the cell tower or Wandell School were never notified; she feels this is unethical. Attorney Huntington stated that municipalities are not required by law to submit themselves to their own Boards for approval. She feels that if the Borough is so concerned about the Historic District and the Saddle River Crossing project, they should not have chosen this site for the cell tower.

Mayor Raia stated that a letter was sent to the Historical Preservation Committee in October of 2009 advising various members of Boards in the Borough of Saddle River about this tower.

Ms. Ahearn asked the Council how they could drive through the center of Saddle River and be proud of the decision they made. She further stated that the community should have been consulted on this issue. She asked why it could not be replaced with something more aesthetically appealing and stated that the downtown is now ruined, in her opinion. She further stated that she is outraged and does not intend to drop this issue. She feels that the public was not kept informed and the Mayor and Council did not give the public a voice on this issue.

Council President Mutter reminded the public that Mayor and Council meetings are held at the same time and date each month, are publicly noticed and all are welcome to attend. He further stated that he has not seen most of the people in the room at the present time.

Mr. Ahearn stated that the Mayor and Council are elected to serve the people and he wanted to know how the Borough plans to go about taking the cell tower down. He further stated that he intends to put a lot of money behind this effort and will fight until there is resolution. He further stated that his three concerns are that the tower is visible from almost anywhere you are in the town, the decrease in property values and the possible health risks. Additionally, he feels it would be hypocritical for him to remain on as a member of the Parks and Recreation Commission and does not intend to do so.

Attorney Huntington stated that to date, there is no evidence of any health risks, these cell towers are now essential and the public should have faith in the FCC and their findings.

Bill Slayne, 57 East Allendale Road, Saddle River, NJ stated that the residents feel betrayed. He further stated he is a citizen who believes in speaking out for what he believes but he was not aware that this tower was even going up until it was constructed. He further stated that the Mayor and Council should have known that the residents, especially those with children in

Wandell School, would have been outraged. Mayor Raia reiterated that it had to be located in the Police and Fire Complex. He further stated that he would like to have a representative from T-Mobile attend the May 16, 2011 meeting and discuss the issues that the residents are concerned about. Mr. Slayne stated that he has concerns about health risks and property values.

Tim Egan, 4 Pinetree Road, Saddle River, NJ stated that he had two concerns with the cell tower; the first being aesthetics and the second being health risks. He further stated that he is familiar with telecommunication business models and that, for T-Mobile to construct this tower in the Borough of Saddle River, they will want to put up as many antennas as possible. Other carriers will initiate an agreement with T-Mobile for roaming capability and service them through their equipment and the Borough will not be aware of it.

Mayor Raia stated that more equipment would have to be installed on the ground for T-Mobile to be able to accommodate other carriers and this would have to be approved prior to any changes being made.

Mr. Egan stated that there is a new technology called light radios, which require less equipment on the ground and more antennas on the pole and this could pose an increased health risk.

Mayor Raia stated that, should T-Mobile contact the Borough regarding adding space on the ground, he would be diligent in making sure that all residents are notified prior to any approvals.

Mr. Cunningham recommended that an analysis be done in order to provide the public with information about any additional equipment that could be installed on the existing pole.

Mr. Slayne asked what it would cost to have this tower removed; this cost was unknown at this time.

Maurice Burke, 102 West Saddle River Road, Saddle River, NJ stated that there seems to be very little interest in preserving the history of Saddle River as it pertains to the Saddle River Museum. The Bergen County Historic Association was allowed to utilize space at the Museum and moved in their library rather than artifacts.

Mayor Raia stated that Mr. Burke is in charge and has the authority to control all materials that are on the Museum premises and it is not a storage facility. It was decided that Administrator Cuccia will meet Mr. Burke at the Museum to address this issue.

John Kurpis, 12 East Allendale Road, Saddle River, NJ stated that the Bergen County Historic Association moved their entire library to the second floor of the Museum, which was not a permitted use area due to structural issues. He has serious safety concerns about this and added that the police also house records and evidence in the Museum which must not be touched.

Mayor Raia stated that he was under the impression that the Bergen County Historical Society was bringing artifacts which would add to the educational aspect of the Museum. He is not in favor of storing all these books and wants them removed.

Irene Hubin, 211 West Saddle River Road, Saddle River, NJ stated that she has been a resident of the town for 58 years and has watched the town change dramatically over the years. She stated that she is concerned about the cell tower and is worried about the potential health risks with the children. Additionally, she has worked with Mr. Burke on the Saddle River Museum and stressed the importance of preserving the history of Saddle River.

UNFINISHED BUSINESS:

NEW BUSINESS:

RESOLUTION FOR CLOSED SESSION

At this time, a resolution was read to go into Closed Session.

Resolution # 65-11 Offered by Council Member Mastriano
Seconded by Council Member Toomey
Roll Call Vote: AYES: Unanimous

A motion to adjourn the Closed Session and return to the Regular meeting of the Mayor and Council was made and seconded.

ADJOURNMENT: A motion was made and seconded to adjourn the regular meeting of the Mayor and Council.

Respectfully submitted,

Marie Elena Macari
Borough Clerk

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