
**MINUTES OF THE REGULAR MEETING
OF THE MAYOR AND COUNCIL OF THE
BOROUGH OF SADDLE RIVER
HELD AUGUST 21, 2006**

PRESENT: Mayor Caruso, Council President Burke, Council Members FitzPatrick, Savarese, Re, Raia, Borough Clerk Macari, Administrator Cuccia, & Attorney Harry Norton

ABSENT: Council Member Murray

PRESIDING: Mayor Caruso called the meeting to order at 7:00 p.m.; Borough Clerk read the following statement:

"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 faxing notice thereof to the Ridgewood Newspapers and The Record on December 30, 2005.

NOTIFICATION OF FIRE EXITS

PLEDGE OF ALLEGIANCE:

AWARDS AND CEREMONIES: At this time, Lt. Robert Breese was sworn in as the Captain of the Saddle River Police Force by Mayor Caruso. He further proclaimed Friday, August 25, 2006 Robert Breese Day in the Borough of Saddle River.

PUBLIC HEARING ON ORDINANCE(S) Clerk to read the title of:

ORDINANCE 06-797-M

A BOND ORDINANCE AUTHORIZING THE ACQUISITION OF REAL ESTATE KNOWN AS LOT 1 IN BLOCK 1607 AS LAID OUT ON THE TAX ASSESSMENT MAP OF THE BOROUGH OF SADDLE RIVER, FOR THE EXPANSION OF RINDLAUB PARK; TO AMEND THE CAPITAL BUDGET; TO APPROPRIATE THE SUM OF \$1,100,000.00 TO PAY THE COST THEREOF; TO MAKE A DOWN PAYMENT, TO AUTHORIZE THE ISSUANCE OF BONDS TO FINANCE SUCH APPROPRIATION AND TO PROVIDE FOR THE ISSUANCE OF BOND ANTICIPATION NOTES IN ANTICIPATION OF THE ISSUANCE OF SUCH BONDS

Mayor Caruso recused himself at this time and turned the meeting over to Council President Burke.

At this time, Council Member Re read the following statement:

**Council Statement on Ordinance 06-797-M
Acquisition of Real Estate BLK1607 L1**

Several years ago the Bergen County voters overwhelmingly approved an additional tax to acquire, maintain, and enhance open space throughout the County. New Jersey is the most populated state in the Nation, open space is vitally important to our quality of life in Bergen County and Saddle River, and is equally important to our property values.

This Council has long discussed the need for expanded community open space in the Borough. As a result of the PUD development, the Tice development and the eventual Schoenlieber development on the East Road, privately held open space in the Borough is rapidly disappearing. In fact 30% of the available open property in Saddle River has been developed over the last 10 years.

It is incumbent upon this Council and future Councils to seriously consider the impact of this issue. We have determined that the passive portion of Rindlaub Park needs to be more accessible to the Residents. Do you know that the pond and nature preserve on the West Road are part of Rindlaub Park and that it is virtually inaccessible at this time. This part of the park is adjacent to the vacant property formerly known as the "Exxon Station Property".

The Council has decided that this vacant property should serve the public good by expanding the open space in our community and providing access to the passive portions of Rindlaub Park.

The owners of the Exxon Property, now vacant, originally proposed the development of a 16,000 Square foot bank and office building, it far exceeded the allowable zoning requirements. Each subsequent presentation for development presented to this Council, while smaller, has still exceeded the current zoning requirements.

Regarding the proposed donation of one acre of land from the present owners to satisfy the open space concerns, the required concession from the Council, requested by the owners, in exchange for one acre, would have rendered our current zoning ineffective and would have negatively impacted the surrounding residential properties.

This vacant property Block 1607 Lot 1 is currently owned by Geof Mulford and Frances Walsh Jr. , this property was purchased three years ago for \$950,000 and yields the Borough \$5,984.00 in real estate taxes.

The Borough is seeking open space grants, which we believe may fund up to 30% of the costs. Finally, some of the open space taxes the residents of the Borough have paid to the County of Bergen may come back to us in the form of an open space grant, this grant would lessen the tax impact to the residents for this acquisition. In fact we project that the impact would be between \$75.00 and \$90.00 per household. A very small amount to pay to create open space in the Borough.

Remember, any development on this property will result in the widening of East Allendale Road and West Saddle River Road, which will seriously impact the quality of life in our community. Every commercial development in town also increases the number of affordable housing units required under COAH round 3. The Borough has always complied with the COAH requirements never seeking to shun our responsibility, but at the same time we are not anxious to cause our responsibility to increase.

This Council clearly feels that open space is a better use for this property.

It should be noted this legal process requires that the property owner must be paid the fair market value for the property.

Council Member Savarese stated that he was not in agreement with the condemnation proceedings.

OPEN TO THE PUBLIC:

Joe Pera, 16 Old Farms Road started by saying that, if water lines are going to be installed in the Borough, they should be installed on every street. He further stated that he is opposed to the purchase of vacant homes on East Allendale Road as well. Regarding this ordinance, he feels that the Borough is spending the tax payer's money excessively. He is not in agreement with condemnation and stated that the Council has let their emotions cloud their thinking. He further stated that the Mayor and Council should consider putting a swimming pool on the property.

Marilyn Goldfisher, 124 West Saddle River Road stated that she did not think that \$1,000,000.00 was not an excessive amount of money to spend on this piece of property. She stated that developing this land would create traffic problems and she feels that it should be preserved as open space.

James Dugan, 35 Fox Hedge Road stated that he has lived in Saddle River for 30 years and has been aware of the activities in the Borough. He stated that Saddle River is very unique with a very low population density and much open space, perhaps more than necessary. He feels that the expenses that the tax payers would have to incur are not worth what the Borough would gain by making this property open space. He further stated that Rindlaub Park is sufficient in size and does not need to be increased. He stated that this decision would make the Council look uninformed. He feels that a small structure on the property with an acre of this land being deeded to the Borough is the best solution.

Chip Gildea, 46 East Saddle River Road stated that he feels that the Council has their heart in the right place however, he feels that this property is not the place for a park. He further stated there will be issues before the Council shortly regarding open space that warrant attention.

Stan Stojkovic, 59 Twin Brooks Road stated that he has been living in Saddle River for over 30 years and supported the Mayor and Council's actions.

Bernie Hopp, 21 Oak Road stated that his son has been looking for land in Saddle River and attempted to buy a one and a half acre lot for \$1,650,000.00. He stated that the property in question was not evaluated accurately at \$1,100,000 and urged the Mayor and Council to give it

some further consideration.

Rob Horowitz, 139 West Saddle River Road stated that he approved the condemnation of this property and feels that open space is a good thing, particularly in the center of town. He further stated that the property has environmental issues as well as split zoning and would be involved in litigation for a long time. At this time, Mr. Horowitz read several emails from residents that were unable to attend but support the condemnation of the property.

Lawrence Podany, 63 East Allendale Road stated that he agrees with the notion of keeping the property as open space and stated that he appreciates the Council's efforts.

Wayne Slayne, 57 East Allendale Road stated that he agrees with the idea of keeping open space in Saddle River.

Linda Vernoy, 125 West Saddle River stated that the intersection where the property is located is very congested and would only be increased should the property be developed.

Geof Mulford, 16 Old Acres Road stated that he is one of the owners of the property and respects both the Mayor and Council as well as the neighbors of his property. He began by saying that the Mayor and Council are seizing his property and it was an unsightly gas station before he purchased it. He further stated that his family is now being put into financial jeopardy due to this condemnation process. He stated that there are currently over 30 acres of open space and an additional 10 acres of ball fields in Saddle River. He stated that he is not looking to sell his property to the town and believes that this is not the spot for open space. He stated that the value of the property is not \$1,000,000.00.

At this time, he gave background on the property chronologically. He further stated that he had no problem discussing any conversations that he has had with the Council and he stated that he has nothing to hide and would like the public to be aware of that.

Mr. Mulford stated that no action has taken place with the Waterford Gardens property. He asked Council Member Re what impact a 6,000 square foot building would have on our COAH allocation. Mr. Re stated that that information was not available. Council Member Savarese stated that he thought the impact would be minimal.

Mr. Mulford stated that there are many zoning inconsistencies in the Borough. He further stated that his proposal would solve these problems, particularly with the split lot zoning on his property. Council Member Raia discussed the County easement on the roadway and stated that, if this property is developed, the County would certainly try and widen the roadway.

Mr. Mulford asked the Council about the status of Waterford Gardens and Council President Burke stated that this is a separate issue which has not yet been resolved. Council Member FitzPatrick stated that they have not replied to our requests to date. Mr. Mulford asked about the development rights to the Waterford property and Council President Burke explained this. Council Member FitzPatrick stated that the Borough is not seizing Mr. Mulford's property and explained that at a meeting with Council President Burke, Borough Engineer Spence, Administrator Cuccia and herself, Mr. Mulford stated that "he would be happy to sell the land to the Borough". Mr. Mulford disagreed with the assessment of what took place at this meeting. Council Member Burke stated that he asked Mr. Mulford on three separate occasions if he

would sell the property and Mr. Mulford stated that he would sell it to who ever wanted to buy it, whether it is an office building, bank, etc. Mr. Mulford disagreed with this and stated that if the property is going to be taken from him then he wants fair market value for the land. His intent is to orchestrate a land lease on the front portion of the property. He further stated that the Council is well aware of the fact that he received an offer significantly higher then \$1,100,000.00. Council President Burke stated that numbers can't be quoted as there are many contingencies involved and the number was based on an independent appraiser. Mr. Mulford stated that if they cannot agree on a number, the case would go before a three panel non-binding arbitration and then the case would go to court. He further stated that if the property is appraised at \$3,000,000, is that the right thing to do with tax payer's money. Council Member Raia stated that the zoning of this property reflects the appraisal and he feels that it is relatively accurate. Mr. Mulford stated that he has not yet read the appraisal but feels that there should be a significant question in the Council's mind regarding it. He feels that, if the appraisal is not accurate, it is unfair for the residents of Saddle River to have to pay for it, he questioned the merits of the location of open space on this property and he further questioned whether or not it is the American way to seize someone's property.

Marilyn Goldfisher stated that it is insulting to bring up the Waterford Garden issue in this forum.

Chip Gildea asked Mr. Mulford why he is so frustrated with the Council and he also asked what the Borough Attorney and the Borough Administrator's input were in that position. He further stated that he finds it impossible to believe that members of the Council are not familiar with property values in the Borough. He further stated that he feels that the Council is seizing Mr. Mulford's property and basing it on an unrealistic appraisal and they are fully aware of this.

At this time, Mr. Mulford read two emails from the opposition.

Dan Schiavello, 22 Cameron Road asked if the ordinance is past and the owner does not want to sell, how would the case proceed. Attorney Norton explained this in detail. He further stated that the property is currently in the condemnation process. He also defined eminent domain for Mr. Schiavello who stated that he thought it meant the taking of land for the definable and immediate public good without the permission of the owner. He stated that the Council is using procedural manipulation to force someone to sell something he does not want to sell.

James Dugan stated that, if this process proceeds and the judgment is for substantially more then the appraisal, that will be a judgment against the Borough of Saddle River and they would have to pay it.

Bruce Meisel, 20 Powder Hill stated that the Council 's responsibility is to determine what the "good" is for the Borough. He further stated that commercial space in Bergen County is plentiful and there is no need for it in Saddle River. He explained the process of condemnation and eminent domain from his standpoint. He further stated that he feels that this is a positive thing for the Borough of Saddle River.

David Meeks, Waterford Gardens stated that the precedent that is being set is not right.

Mr. Mulford stated that Mr. Meisel was interested in purchasing this property for the purposes of building a bank.

Resolution #117-06 Offered by Council Member Burke
Seconded by Council Member Raia
Roll Call Vote: AYES: Burke, FitzPatrick, Murray, Raia, Re
NAYS: Savarese

WORK SESSION

MAYOR CARUSO:

Statewide Equalized School Tax: Mayor Caruso stated that the Borough's is receipt of a letter from the State stating that Saddle River's school tax is below the norm and that the State would like to raise it. He further stated it appears to be a trend to eliminate single school districts in the State and he would like to the Council to be aware of this.

Pay to Play Discussion: Mayor Caruso stated that he is in receipt of a sample ordinance regarding this and asked the Council to review this and be prepared to discuss this at a later date.

Mayor's Wellness Campaign: Mayor Caruso explained the resolution and asked the Council to review this for further consideration at the September 18, 2006 meeting.

The Ridge: Mayor Caruso stated that he attended a meeting with Planning Board Members Rick Cote, Joe Pera, Attorney Konig as well as the owners and developers of the Ridge in order to negotiate a settlement regarding the current litigation. The litigation was between the Borough of Saddle River and the developer regarding the placement of ingress and egress. Judge Harris decided against the Borough of Saddle River and the Borough appealed that decision. The developers of the Ridge wanted to continue discussion and try and bring the matter to a conclusion.

The County is going to seek ingress and egress at Glen Road and Chestnut Ridge in Woodcliff Lake. Had we won the appeal, this is what the outcome would have been. In addition, we received a \$25,000.00 contribution to conduct a traffic study on Chestnut Ridge Road, a \$100,000 contribution to make improvements to the infrastructure of the development, a \$500,000 contribution to assist in meeting our COAH requirements. They also have given the Borough of Saddle River an option to take title to a small part of land located in Woodcliff Lake to no cost to the Borough as well as the option of extending the water line from East Allendale Road and Chestnut Ridge Road to the development, for which they will contribute \$182,000. Mayor Caruso is in receipt of a draft agreement which is currently in review and he further stated that he sees no reason why it would not be signed.

Villa Marie Claire: Mayor Caruso stated that the property will be coming up for sale and he feels that it is a perfect property for the Borough to negotiate the purchase of for either open space as well as the fulfillment of COAH requirements.

ADMINISTRATOR CUCCIA

Villa Marie Claire: Administrator Cuccia stated that he has been in touch with the Housing Corporation of Bergen County and they would like the Borough to conduct a COAH study on the building on the property to see if there is potential for utilization. He further stated that there is money in the budget for that.

Scoreboard: Administrator Cuccia stated that the money for the scoreboard was received from

the town of Ho-Ho-Kus and the scoreboard should be delivered next week.

Ordinance amendments for fences and auxiliary structures: Administrator Cuccia explained that these amendments were necessary so that they were consistent with the zoning ordinances.

Retirement of Lt. Robert Breese: Administrator Cuccia stated that there is a resolution appointing Lt. Breese as Captain and it is part of the Consent Agenda.

Bergen County Project Updates; Traffic Light, Old Woods drainage: Borough Engineer Spence stated that we are still waiting on final approvals from the County regarding the light on Boro Line Road. The Old Woods drainage project has been put out to bid and work should begin some time in September. Lower Cross Road construction has started and will entail curbing and paving.

Replacement of Kiersten Bloss: Administrator Cuccia stated that the building department has hired a full time employee and the resolution regarding her appointment is part of the Consent Agenda.

Verizon Services: Administrator Cuccia stated that the hearing is currently on hold as the State has yet to make a determination on how to proceed.

Radio System for Fire Dept.: Administrator Cuccia stated that there have been some issues with frequencies with Upper Saddle River and the Fire Department is trying to obtain a frequency of their own by utilizing a digital service provided by the County.

COUNCIL REPORTS:

Council Member Raia stated that the "Can you Imagine Saddle River in 2020" survey is on the Borough website and encouraged the public to fill it out. Mayor Caruso suggested using the Reverse 911 system to let residents know about the survey. It was decided that postcards would be sent out.

INTRODUCTION OF ORDINANCE(S): Clerk to read the title of:

ORD. 06-798-C

**AN ORDINANCE TO AMEND AND SUPPLEMENT
CHAPTER 105 ENTITLED "FENCES", IN THE CODE
OF THE BOROUGH OF SADDLE RIVER, NEW JERSEY**

Resolution # 118-06 offered by Council Member Savarese
Seconded by Council Member Re
Roll Call Vote: AYES, Unanimous

ORD. 06-799-C

**AN ORDINANCE TO AMEND AND SUPPLEMENT
CHAPTER 85 ENTITLED "AUXILIARY STRUCTURES",
IN THE CODE OF THE BOROUGH OF SADDLE RIVER,
NEW JERSEY**

Resolution#119-06 Offered by Council Member FitzPatrick
Seconded by Council Member Savarese
Roll Call Vote: AYES, Unanimous

APPROVAL OF BILLS

Resolution # 120-06 Offered by Council Member Savarese
Seconded by Council Member Burke
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 Member Burke
Seconded by Council Member Re
Roll Call Vote: AYES, Unanimous (Savarese to abstain from approval of minutes)

Explanation of Consent Agenda Items

- A. Approval of Minutes:** The regular meeting of the Mayor and Council Minutes of July 17, 2006
- B. Resolution (s):**
 - R# 121-06 Authorizing sale of Borough's bonds to the NJ Environmental Infrastructure Trust fund**
 - R# 122-06 Authorizing the execution by the Borough of the Loan Agreements, (both resolutions in connection with the 2006 NJ Environmental Infrastructure Trust Financing Program)**
 - R# 123-06 Renewal of Bergen Municipal Employee Benefits Fund and authorization to sign BMEBF Indemnity and Trust Agreement**
 - R# 124-06 Renewal of membership in the Bergen County Municipal Joint Insurance Fund**
 - R# 125-06 Appointment of Administrative Clerk**
 - R# 126-06 Police Officer Promotion**
 - R# 127-06 Resolution canceling property taxes on Blk 1607 Lots 7&8**
 - R# 128-06 Grant Agreement Barrier Free Ramp Municipal Building**

Open to the Public for Consent Agenda Items Only:

COMMITTEE REPORTS

Finance Report: There was no report at this time.

Fire Report: Council Member Re stated that the report was on file with the Borough Clerk for July 2006.

Police Report: Council President Burke gave the report for July 2006

Construction & Zoning Enforcement: Council Member Savarese gave the report of July 2006.

Planning Board: There was no report.

Zoning Board: Council Member FitzPatrick gave the report for July 2006

Parks and Recreation: Council Member Raia stated that the next report will be in September, 2006.

OPEN TO THE PUBLIC:

Irene O'Shea, 174 West Saddle River Road asked about the resolution canceling property taxes on Blk. 1607 Lots 7 & 8. that was part of the Consent Agenda and Administrator explained that these are properties that are owned by the Borough.

David Meeks, Waterford Gardens stated that there was a question about them coming to the Mayor and Council with the intent to sell their land, which is incorrect. He further stated that is not correct and has testimony from several people to back that up. He wanted the record to show that any actions taken were not a result of any letter generated from Waterford Gardens.

UNFINISHED AND NEW BUSINESS:

Council Member FitzPatrick stated that there will be a Memorial Service on September 11, 2006 at 9:00am at Wandell School.

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

Respectfully submitted,

Marie Elena Macari
Borough Clerk

WP/MINMCAug06