

BOROUGH OF HASBROUCK HEIGHTS

MINUTES

October 26, 2004

A Regular Meeting of the Mayor and Council of the Borough of Hasbrouck Heights was held on Tuesday, October 26, 2004 at 8:06 p.m. at Borough Hall, 320 Boulevard, Hasbrouck Heights, New Jersey.

Borough Clerk Rose Marie Sees stated that the meeting complied with the Sunshine Law, adequate notice of this meeting having been made to all members of the Council by personal service on January 5, 2004 and transmitted to The Observer, The Record and The Herald News on January 5, 2004.

ROLL CALL: Present: Mayor Ronald R. Jones, Councilman Andrew Link III, Councilman Justin A. DiPisa, Councilman Garrett R. Pepe, Councilwoman Marlene Verrastro (who arrived late), Councilman Ronald F. Kistner, Councilman Thomas E. Meli

Absent: None

SALUTE TO THE FLAG AND PLEDGE OF ALLEGIANCE: Mayor Jones led in the Salute to the Flag and Pledge of Allegiance.

INVOCATION: The Invocation was given by Reverend Katherine Ellison.

COMMUNICATIONS:

1. Letter from David L. Ganz, Fair Lawn Mayor and Bergen County Freeholder, informing Mayor Jones of approval of Community Development Grant for \$40,000 for B/F Elevator for Public Safety Building

On a motion by Councilman DiPisa, seconded by Councilman Link, and unanimously carried, the foregoing Communication was accepted.

APPROVAL OF MINUTES: (September 28, 2004)

Councilman DiPisa, seconded by Councilman Link, and unanimously carried, the foregoing Minutes were approved.

PETITIONS: Two petitions were received, (1) **AA STATEMENT OF SUPPORT.** We have knowledge of the proposed cell relay station installation in the steeple of the United Methodist Church of Hasbrouck Heights and support their decision to enter into

PETITIONS (continued):

project. We believe that this congregation has done adequate research and any and all concerns that we must have had have been answered. We support this project and do so by signing our names (106 signatures). (2) A PETITION AGAINST CELL PHONE TOWERS IN HASBROUCK HEIGHTS, NJ. To Mayor Jones and all the board members: On Wednesday, October 6th, 2004, the Hasbrouck Heights zoning board voted to allow AT&T to go ahead with the construction of a cell phone tower in the steeple of the Methodist Church 57 Burton Ave. on the corner of Burton and Division Avenue. Although several Hasbrouck Heights citizens spoke at the meeting against the construction and warned the attendees of the risks involved in having this tower near families, kids and schools, AT&T was still given permission. By allowing AT&T to do this, many other areas in Hasbrouck Heights could be subject to the same in the very near future. AT&T's experts could not tell us with 100% certainty that this exposure over a prolonged period of time was safe. Cell phone technology is relatively new and there isn't enough data out there to support either case and therefore, there are too many unknowns. Who benefits from having this tower in our neighborhood? Only AT&T and the church will benefit. We don't benefit. Our property values could be affected and more importantly, our health could be at risk. Although we don't know whether AT&T can be stopped, we must do our best to get support in stopping this invasion and others like it. Our quality of life in this town is most important, not whether or not we can get better reception on the Boulevard. We as residents of Hasbrouck Heights oppose the cell tower construction. We do not want this in our neighborhoods. (306 signatures when petition read by clerk, 49 signatures handed in later during meeting).

Motion by Councilman Pepe, seconded by Councilman DiPisa, and unanimously carried, the foregoing Petitions were accepted.

OPINION: The Borough Attorney was asked to render an opinion as to what jurisdiction the governing body had as it relates to the grant of the application of AT&T. He asked that an opinion letter be distributed, and asked for a moment to go over the opinion as it relates to what the objectors could and could not do. He left copies for anyone interested. The reporter of the local newspaper asked if the letter could be published, yes it could be. He had reviewed as much as what he had of the application, and it appears there are two or three Ad@ variances. When one is granted the mayor and council has jurisdiction over that appeal. That appeal is essential, and if it isn't taken, they have failed to exhaust their administrative remedies, if not they prejudice their case. He continued that in order to act on an appeal, there must be an affirmative vote of the majority of authorized membership, with the mayor presiding and a vote of four of the six councilpersons. He noted that the governing body would need to refrain from any comment on this issue, or be disqualified from hearing the appeal. If more than two are disqualified, it renders the appeal useless. He also

ON (cont=d):

the audience to restrain themselves, they become in essence a quasi judicial body. An appeal can be filed at any time, and he had forms with him. The appeal cannot be heard until after the Planning Board finalizes its action. He would rule that the governing body can accept a petition of appeal, the transcripts can be made ready, and the residents can be afforded a prompt hearing if the Planning Board does finally grant this application.

Jones asked if there is any deadline, and was told it is ten days from the publication of the final decision. The borough attorney cautioned that it is always possible that a decision is published by the applicant before the memorialization, and questioned the legality of that action. The question from an appeal is was the action of the planning board reasonable in what was presented. Mayor Jones asked if they should not answer any questions relating to this and was told yes. The mayor and council representative could not vote at the planning board level so they could participate here. Once an appeal is heard, the governing body has 95 days to render a decision, unless the applicant consents to an extension. Mr. Kistner noted that the applicant had a stenographer and that the town stenographer did not take notes. He questioned what happens in this case and was told the town stenographer picks up the disc and prepares it from there.

Jones asked for a motion to order the stenographic proceedings from the borough stenographer, Beth Calderone to immediately prepare a transcript of the planning board=s proceedings if an appeal is filed and have the borough clerk provide copies of that transcript to the governing body, borough attorney, all appellants, and AT&T at no cost to any of the appellants as well. A motion was made by Councilman Pepe, seconded by Councilman DiPisa, and unanimously carried.

BILLS:

BE IT RESOLVED that the claims and accounts amounting to \$2,099,840.66 specified in the schedule hereto annexed, having been examined and approved by the Finance Commissioner, or his Deputy, be paid and that warrants be issued therefore.

Signed Andrew Link, III
Commissioner of Finance

On a motion by Councilman Meli seconded by Councilman Kistner, and unanimously carried, the foregoing Resolution was adopted.

REPORTS:

FINANCE AND LAND USE: Under Finance, Commissioner Link gave the Finance Report for the month of October. The current fund cash balance as of September 30 was \$6,113,000; on August 31 was \$7,508,000 which represents a decrease of \$1,394,000. The entire balance was invested and is earning 1.75%. Cash receipts for September totaled \$1,160,000 of which \$573,000 was for current taxes, \$14,674 was prepaid 2005 taxes and \$463,000 was grants and state aid, with a \$109,000 miscellaneous revenue. Cash disbursements for September were \$2,554,000 of which \$1,379,000 was local school taxes, \$489,000 was salaries and \$685,000 was for other expenses. He noted the tax office would be open October 30 for the collection of fourth quarter taxes due November 1, 2004. Under Property Maintenance, Commissioner Link reported there were three properties cited for overgrown shrubs and debris. There was one complaint of a retaining wall on Stanley Avenue needing replacement. A Passaic Avenue resident complained of a pipe installed on a Springfield Avenue property directly behind him was causing rain water to flow onto his property, which would be corrected by that resident. A complaint of a Prospect Avenue resident who had numerous amounts of trash and debris reported he was cleaning out his garage.

HEALTH AND RECREATION: Under Health, Commissioner DiPisa noted the health statistics could be found in the registrar's office. He thanked the Health Fair Expo Committee including Charlotte Sodora, Marty Saccomanno, Marilyn deRussy, Lou Castellitto, Nancy and Gary Wells, the Mayor and Council and the 280 people who attended. Under Recreation, Commissioner DiPisa congratulated Rob Brady and his committee consisting of Councilman Kistner, Councilman Meli, Lori French, the Police, Fire and DPW for the best Halloween in the Park ever. He reported the Community Awareness Access to All Committee was in the process of preparing a directory and thanked Patrick and Dorothy McCarthy, Eric and Michele Bischoff, Maryann Pisani, Brenda Colaneri, Police Chief Colaneri and Pam Link. He congratulated the Bergen County Volunteers of the Year including Lori French, Capt. Jack DeLorenzo and Michele Zahn.

POLICE AND PUBLIC FACILITIES:

Under Grants, Commissioner Pepe gave a brief summary of grant applications to be submitted to the Bergen County Open Space Trust Fund by Oct. 29: Basketball Court and Roller Hockey Park in the amount of \$177,700; reconstruction of football press video booth \$37,570; children's play area and bleachers at Minor League Field, \$49,060; new goals and backstops and bleachers behind high school, \$29,944. Four grant applications were also submitted for capital projects: improvements to Woodland Park, improvements to Ravine Avenue between fields; parking lot on Central Avenue and Boulevard, gear for the Police and Fire Departments and laptop computers for the

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POLICE AND PUBLIC FACILITIES (cont=d):

library. CD grants were applied for the comfort station at Woodland Park and Senior Bus. Under Public Facilities, he reported utilities to the temporary fire and police headquarters are in the process of being shut down, clean up has been started by the DPW for dismantling and Verizon will be cutting phone lines by next week. The Police Department is settling into the new headquarters, the Central Avenue parking lot bid specifications are being prepared in two phases. The next step is dependent on grants received. Under Police, he reported on the Town Hall Meeting Emergency Preparedness second phase, and thanked those involved.

STREETS & TRANSPORTATION AND PARKS:

Under Streets, Commissioner Kistner reported that the specifications for the roads to be resurfaced are being finalized and will be received later this year with a Spring 2005 target date. Five lights are out under the Route 46 overpass on the Boulevard and the State DOT will be contacted. The DPW was requested to look at the potholes on Longworth and Hamilton Avenues which need patching. Under Parks and Recreation, he thanked the numerous residents who were involved in the Hayride in the Park with over 600 rides given. The soccer field in Woodland Park will be closed and winterized after the soccer season is ended. Signs have been put in place. Under Recreation, he reported the first Battle of the Bands took place, and AStalemate@, a band comprised of high school children won the event. Upcoming events include a karaoke and comedy nights. Over 200 children are signed up for the Recreation Center.

FIRE AND SANITATION:

Under Fire, Commissioner Meli gave the Fire Report for September: Fire Calls: Hasbrouck Heights 11, year to date, 213; Teterboro 10, year to date, 70; Mutual Aid 1, year to date 22. Ambulance Calls: Hasbrouck Heights 111, year to date, 946; Teterboro 5, year to date 95; Mutual Aid 10, year to date 66. The Fire Department Appeal letter has been mailed. Pediatric boards were purchased with private funds. With regard to grants, one has been applied for scott packs. Under Sanitation, he thanked the department for helping with Halloween in the Park. He also commended Councilman Kistner and Rob Brady. He reminded residents of the new leaf policy. He attended a Bergen County Cross Acceptance meeting.

REPORT OF MAYOR: Mayor Jones reported he had attended the Hall of Fame Dinner and congratulated the deserving recipients. He had attended an all day DOT Seminar at the Hasbrouck Heights Hilton noting that Bergen County was in dire need of transportation needs but there was little funding. The widening of Route 17 was discussed, with a 10 year proposed plan. He also attended the 2004 Bergen County
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REPORT OF MAYOR (cont=d):

Volunteer program which was filled with volunteers from almost every town in Bergen County. He congratulated the Hasbrouck Heights recipients. He commended the various departments for the Recreation Center and Health Fair.

APPOINTMENTS: Gilbert Hunt to Environmental Commission as Planning Board Representative

Dr. James Aversa to Board of Health

On a motion by Councilman DiPisa, seconded by Councilman Pepe, and unanimously carried, the foregoing Appointments were approved.

RESIGNATIONS: Arthur Knobloch from the Fire Department

On a motion by Councilman Meli, seconded by Councilman DiPisa, and unanimously carried, the foregoing Resignation was accepted with regret.

NEW BUSINESS:

CLOSURE OF CENTRAL AVENUE AT MUNICIPAL BUILDING:

Councilman Pepe reported that since the Court was moved to its new location in the Public Safety Complex, the closure of Central Avenue as discussed previously was recommended. The Chief of Police was in favor of this closure, but was concerned with the timing, that when seniors come to their meetings, they would be making three point turns until the Hershey Kiss was removed and the permanent parking lots would be available. The mayor suggested portable barricades to the Hershey Kiss which could afford proper turning. A meeting to look into this further by the mayor and police chief was recommended.

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| CONSENT AGENDA: | 174. | Raffle License for Corpus Christi Home School | Association |
| | 175. | Authorizing Clerk to Advertise for Bids for Tree | Truck with Ae |
| | 176. | Authorizing Clerk to Advertise for Bids for Stump | Cutter |
| | 177. | Raffle License for New Jersey Wrestling Officials | Association |

by Councilman DiPisa, seconded by Councilman Meli, and unanimously carried, the foregoing Consent Agenda Resolutions were approved (Copies attached).

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| NS: | 178. | Authorizing Municipal Representative to Open Municipal Park Improvement and Regional Committee | Space Trust
Land Acquisition Program |
| | 179. | Authorizing Payment of Balance of Jean Torre "Friends of the Library" | Memorial Fund to
Endowment Fund" |

On a motion by Councilman Meli, seconded by Councilman Pepe, and unanimously carried, the foregoing Resolutions were approved. (Copies attached)

ORDINANCE(S) ON INTRODUCTION: None

ORDINANCE(S) ON PUBLIC HEARING: None

MISCELLANEOUS FROM PUBLIC:

Mayor Jones invited anyone wishing to speak to please come forward.

George Campen, 262 Walter Avenue, questioned when a public meeting on the cell tower would be held. The attorney advised that if an appeal was definitely to be filed, the transcript would be ordered, and a tentative date could be set in late November or early December. Councilman Meli questioned if the appeal would be heard in itself or at a public meeting. Either format was possible. He questioned if at the Planning Board meeting public comment would be heard and was advised that all public meetings have a public portion. However, the council could not give direction to the Planning Board.

Gail Handy, 319 Division Avenue, questioned the order of the meeting of the Planning Board and again it was noted that this body could not intervene. She was advised to get the name of the Planning Board chairman to make her request for a change of the order of that meeting.

Ileana Toledo, 251 Division Avenue, questioned why the parents of the Methodist Nursery School not advised of the Planning Board Meeting. She was advised that this was a question for the Planning Board.

Janet Lohrmann, 30 La Salle Avenue, noted that a meeting with parents of the Methodist Nursery School was to be held the next evening and would the governing body be in attendance. They were advised that they shouldn't. The attorney noted the minimum requirement of notification by State law was to 200 foot owners of property of the proposed site.

Will Toledo, 251 Division Avenue, a resident for 13 years, stressed that children take precedent over a cell tower, they need a safe environment.

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MISCELLANEOUS FROM PUBLIC (cont=d):

Ronald Billetz, 236 Division Avenue, noted that between Burton and the Boulevard there are a dozen children ages 10 and below and wondered about the consequences to their health. He also noted that if this goes through, the Methodist Church should pay taxes on it.

Joe Livecchi, 304 Division Avenue, was concerned that property values would go down. The Wood-Ridge recent legislation was discussed regarding cell towers.

Lucia Waters, 211 Division Avenue, brought up an application for a cell tower the previous year which was next to her home which was dropped. She asked what steps needed to be taken to have an ordinance to allow only structures in certain areas. The attorney noted the governing body did consider a zoned area, but decided against it as it would be futile, as most of the borough property is adjacent to homes. He recommended that the council reconsider the areas near the airport. Mayor Jones noted that the 1996 Telecommunications Act and the attorney noted that as the cases have come down, we can impose some restrictions.

George Campen, 262 Walter Avenue, referred to Wood-Ridge's ordinance and why couldn't this borough have such an ordinance. The attorney noted the 300 foot stipulation would probably rule out all borough property and the business zones, including the highway business zones.

George Risquet, 257 Walter Avenue, referred to the 1996 Telecommunications Act. The attorney noted the one criteria for the grant of a Ad@ variance that is affected by whether service can't be provided without the installation of the tower and that criteria is essential. He questioned if anything said in the last meeting could affect the appeal.

Kay Manginelli, 119 Washington Place, questioned that hasn't this matter been litigated and decided in another jurisdiction by a higher court and isn't this a waste of money. She was advised that every case stands on its own.

Gail Handy, 319 Division Avenue, questioned if the Planning Board could hold the memorialization. She was advised that once the hearing is concluded and a vote taken, the memorialization must be done within 45 days. If it is not, then the applicant can take action.

John Capozzi, 230 Raymond Street, questioned when AT&T applied and notified the residents within 200 feet, did it occur to them to notify the parents. This could not be answered.

Will Toledo, 251 Division Avenue, had researched the Telecommunications Act of 1996, Section 704 strips the power from the state and local community. He had also talked with Senator Pat Leahy's aid who noted two bills opposing cell towers near

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MISCELLANEOUS FROM PUBLIC (cont=d):

homes are S3102 and A5631. He also referred to homeland security and the past events.

Ronald Billetz, 236 Division Avenue, referred to something he had off the Internet where certain areas of the country had prohibited cellular antennas near schools.

There being no one else wishing to speak, the public portion was closed.

ADJOURN:

There being no further business to be conducted by the Mayor and Council, the public portion of the meeting was adjourned at 9:55 p.m.

I, ROSE MARIE SEES, Borough Clerk of the Borough of Hasbrouck Heights, do hereby certify that the foregoing Minutes are to the best of my knowledge a true account of the Regular Meeting held on October 26, 2004.

Rose Marie Sees, RMC
Borough Clerk