

BOROUGH OF HASBROUCK HEIGHTS

MINUTES

December 28, 2004

A Regular Meeting of the Mayor and Council of the Borough of Hasbrouck Heights was held on Tuesday, December 28, 2004 at 8:07 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, Councilwoman Marlene Verrastro, Councilman Ronald F. Kistner, Councilman Thomas E. Meli

Absent: Councilman Garrett R. Pepe

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 Edward Glasser, Associate Minister of The Community United Church of Christ.

COMMUNICATIONS:

1. Letter from Richard J. Codey, Acting Governor, thanking Mayor Jones for his good wishes.
2. Letter to Mayor and Council from Beacon Realty Associates regarding Riser Ditch Dredgers.
3. Letter from Albert P. Maiocchi of the NJ Dept. Of Transportation with denial of the Borough's 2005 request for funding.
4. Letter from Donald Elizabeth Bulwicz of Walter Avenue commending Robert Heck and Jim Schneider for their assistance regarding the replacement of the fencing surrounding the Public Safety Complex.

On a motion by Councilman DiPisa, seconded by Councilwoman Verrastro, and unanimously carried, the foregoing Communications were accepted.

APPROVAL OF MINUTES: None

PETITIONS: None

BILLS:

BE IT RESOLVED that the claims and accounts amounting to \$141,506.87 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 Councilwoman Verrastro seconded by Councilman DiPisa, 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 November. The current fund cash balance as of November 30 was \$4,080,570.04; on October 31 was \$2,505,852.37 which represents an increase of \$1,575,717.67. The entire balance was invested and is earning 1.93%. Cash receipts for November totaled \$4,530,386.94 of which \$4,102,157.12 was for current taxes, \$14,142.84 was prepaid 2005 taxes, \$319,506.04 was grants and state aid, and \$94,580.94 was miscellaneous revenues. Cash disbursements for November were \$2,957,771.86 of which \$1,379,290.16 was local school taxes, \$680,136 was county taxes, \$565,836.73 was salaries and \$332,508.97 was for other expenses. He continued that the 2005 Municipal Budget process is underway with introduction scheduled for February, the Annual Debt Statement due January 31, and the Annual Financial Statement due February 10, 2005. Under Land Use, he gave the Property Maintenance Report for December. There were several complaints for garbage, rainwater runoff, home in disrepair, a backyard with debris, white goods on curb before pickup day, and contractor signs removed.

HEALTH, RECREATION AND PUBLIC FACILITIES:

Commissioner DiPisa digressed from his regular reports. He thanked for the work done in the year 2004, members of the Health Department, the Board of Health, the Health Expos, Flu program, the Recreation Department, the Recreation Center and Councilman Kistner, the Senior Center, the volunteers, Public Facilities Building Committee, the Police and Fire Departments and DPW and the Community Awareness Access to All Committee.

SOCIAL SERVICES:

Under Social Services, Commissioner Marlene Verrastro thanked the residents who had helped Mrs. Kulakowski in the past and those who made donations.

POLICE, STREETS & TRANSPORTATION AND PARKS:

Under Police, Commissioner Kistner had no formal report. Under Streets & Transportation, he had called to have the lights under the overpass repaired. Under Parks, Woodland Park soccer field was treated by volunteer Mike Mongen, and the field should be ready for early spring. A Christmas Party was held for the 8th and 9th grades in the Recreation Center which was well received.

FIRE AND SANITATION:

Under Sanitation, Commissioner Meli commended Supt. Robert Heck and the DPW for their hard work. Under Fire, he reported that a check was received for \$2,000 for pediatric gear from Public Service, bringing the total to \$4,000. New gear was also purchased for the Ambulance Squad and Firefighters. He commended all the volunteers for their help during the year.

REPORT OF MAYOR:

APPOINTMENTS: None

RESIGNATIONS: Sarah Chiha as Assistant Secretary in the Police Department effective January 7, 2005.

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

NEW BUSINESS:

HEARING OF APPEAL:

- A) Hearing on Supplement to an Appeal from the Decision of Planning Board Grant to AT&T Wireless

Borough Attorney Chandless opened the hearing of the Appeal to the Governing Body of John Baratta filed from the decision of the Planning Board to AT&T Wireless on the Methodist Church site. Mr. Baratta's appeal states that he seeks to have the proceedings of the Planning Board in this matter set aside and the decision reversed due to the fact that two members of the Planning Board who are also members of the

HEARING OF APPEAL (cont'd):

Methodist Church participated in the proceedings. He bases that appeal on three cases which he has cited in his appeal and each member of the council was provided with a synopsis of those court decisions from Mr. Chandless. Most significantly, Mr. Baratta states that "although there does not appear to have been any intentional wrongdoing, it is my understanding of the law that they were disqualified and should not have participated at all." This was received by the borough clerk on December 14, 2004 and filed and when questioned the clerk answered affirmatively that this had been served on all interested parties and to AT&T Cellular, by certified mail to which there is a receipt. He recommended to Mayor Jones that he call Mr. Baratta to see if there was anything to add.

John Baratta, 269 Walter Avenue, noted as was in the case law, the N.J. Statutes for Conflict of Interest states that no member of a Planning Board shall be permitted to act on any matter in which he has either directly or indirectly any personal or financial interest and in the cases it does state that a personal interest as far as a church or synagogue is concerned applies to all members of a non-pecuniary organization and they must seem to have some relative interest in it although non-pecuniary the same as stockholders in a corporation. Although these two members did not vote, he noted they did participate quite extensively in the questioning as to one of the Planning Board members and according to the case law, it would void any decision of the Planning Board because you really can't subjectively ask me to say how their participation in the matter affected the decision of everyone else.

The Borough Attorney then suggested to the Mayor to call forward anyone who wished to respond to Mr. Baratta's appeal.

Michael Lavigne, attorney with Pitney, Hardin who represented the applicant in the matter before the Planning Board when the application was filed for AT&T Wireless, now with the merger they now go by Cingular Wireless. He said they did receive a copy of the appeal, is familiar with the case law, and neither he or the application was aware there were members of the church sitting on the board. He said Cingular does not intend to stand in the way the board feels and that it would be appropriate to vacate the previous decision and remand for reconsideration without any participation at all of those two members who are also members of the church. They would resubmit their application and proceed again.

The borough attorney advised, given the representation on behalf of the applicant, it would be appropriate to entertain a motion to reverse the decision of the Planning Board based on Mr. Baratta's appeal and statement. A motion to that effect was made by Councilman Kistner, seconded by Councilman Meli, and unanimously carried.

HEARING OF APPEAL (cont'd):

Mayor Jones suggested that if re-application is made, that the Planning Board hire a radio frequency expert. He asked for support of the Planning Board, who are volunteers trying to do what is best for the community.

CONSENT AGENDA: 212. Granting of Hotel Licenses

On a motion by Councilman Link, seconded by Councilman DiPisa, and unanimously carried, the foregoing Consent Agenda Resolution was approved (Copy attached).

RESOLUTIONS: 213. Authorizing Redemption of Tax Title Lien No. 2003-01

214. Authorizing Redemption of Tax Title Lien No. 2004-01

215. Authorizing Redemption of Tax Title Lien No. 2004-03

216. Setting Date for Appeal of Toledo and Risquet Re: Planning Board Cell Tower Approval. - WITHDRAWN

217. Renewal of Contract with Bollinger Fowler for Prescription Drug Program

218. 2004 Budget Appropriation Transfers

219. Authorizing Change Order No. 5-8 in Connection with Electrical Work for New Municipal Building/ Public Safety Building

220. Authorizing Cancellation of Taxes for 2004 for 100% Disabled Veteran
On a motion by Councilman Link, seconded by Councilwoman Verrastro, and unanimously carried, the foregoing Resolutions, excluding Resolution 216 which was withdrawn, were approved. (Copies attached)

ORDINANCE(S) ON INTRODUCTION: None

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ORDINANCE(S) ON PUBLIC HEARING:

Mayor Jones opened the public hearing on Ordinances No. 2066, 2067, 2068, 2069, and 2070. There being no one wishing to speak, the public hearing was closed.

BE IT RESOLVED that an Ordinance entitled: **“AN ORDINANCE TO FIX THE SALARY AND COMPENSATION OF MEMBERS OF THE HASBROUCK HEIGHTS POLICE DEPARTMENT FOR THE YEAR 2005 IN ACCORDANCE WITH THE TERMS OF A CONTRACT BETWEEN THE BOROUGH OF HASBROUCK HEIGHTS AND THE POLICEMEN’S BENEVOLENT ASSOCIATION LOCAL 102,”** be now passed on second and final reading and the Borough Clerk be and is hereby authorized and directed to publish said Ordinance, same to be published in The Record, a newspaper circulating in the Borough of Hasbrouck Heights.

BE IT RESOLVED that an Ordinance entitled: **“AN ORDINANCE TO FIX THE SALARY AND COMPENSATION OF CERTAIN OFFICERS AND EMPLOYEES OF THE BOROUGH OF HASBROUCK HEIGHTS, NEW JERSEY, FOR THE YEAR 2005,”** be now passed on second and final reading and the Borough Clerk be and is hereby authorized and directed to publish said Ordinance, same to be published in The Record, a newspaper circulating in the Borough of Hasbrouck Heights.

BE IT RESOLVED that an Ordinance entitled: **“AN ORDINANCE TO FIX THE SALARY AND COMPENSATION OF CERTAIN EMPLOYEES OF THE DEPARTMENT OF PUBLIC WORKS OF THE BOROUGH OF HASBROUCK HEIGHTS, NEW JERSEY, FOR THE YEAR 2005,”** be now passed on second and final reading and the Borough Clerk be and is hereby authorized and directed to publish said Ordinance, same to be published in The Record, a newspaper circulating in the Borough of Hasbrouck Heights.

BE IT RESOLVED that an Ordinance entitled: **“AN ORDINANCE TO AMEND AN ORDINANCE ENTITLED “AN ORDINANCE TO FIX THE SALARY AND**

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ORDINANCE(S) ON PUBLIC HEARING (cont’d):

COMPENSATION OF CERTAIN EMPLOYEES OF THE DEPARTMENT OF PUBLIC WORKS OF THE BOROUGH OF HASBROUCK HEIGHTS, NEW JERSEY, FOR THE YEAR 2005,” be now passed on second and final reading and the Borough Clerk be and is hereby authorized and directed to publish said Ordinance, same to be published in The Record, a newspaper circulating in the Borough of Hasbrouck Heights.

BE IT RESOLVED that an Ordinance entitled: **“AN ORDINANCE TO FIX THE SALARY AND COMPENSATION OF CERTAIN OF THE OFFICERS AND EMPLOYEES OF THE BOROUGH OF HASBROUCK HEIGHTS, NEW JERSEY, FOR THE YEAR 2005,”** be now passed on second and final reading and the Borough Clerk be and is hereby authorized and directed to publish said Ordinance, same to be published in The Record, a newspaper circulating in the Borough of Hasbrouck Heights.

On a motion by Councilman DiPisa, seconded by Councilman Meli, and unanimously carried, the foregoing Ordinances on Public Hearing were approved.

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

John Baratta, 269 Walter Avenue, reiterated that as he stated in his letter, he had no intention to infer that the Planning Board had any intention of wrongdoing and acted with the public interest in mind.

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

There being no further business to be conducted by the Mayor and Council, the public portion of the meeting was adjourned at 8:54 p.m. to Sine Die. On January 1, 2005.

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 December 28, 2004.

Rose Marie Sees, RMC
Borough Clerk