

## **BOROUGH OF HASBROUCK HEIGHTS**

### **MINUTES**

**September 12, 2006**

A Regular Meeting of the Mayor and Council of the Borough of Hasbrouck Heights was held on September 12, 2006 at 8:08 p.m. at Borough Hall, 320 Boulevard, Hasbrouck Heights, NJ.

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 3, 2006 and transmitted to The Observer, The Record and The Herald News on January 3, 2006.

**ROLL CALL:** Present: Mayor Ronald R. Jones, Councilwoman Maryetta Saccomano, Councilwoman Carol J. Skiba, Councilman Leonard Introna, Councilman Thomas E. Meli, Councilman Ronald F. Kistner, Councilman Justin A. DiPisa

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 Edward J. Glasser, Community United Church of Christ

**PROCLAMATION:** Marilyn deRussy on her Retirement

Mayor Jones presented a Proclamation to Marilyn deRussy on her retirement which was read by Councilman DiPisa as follows:

“WHEREAS, working for a municipality can be a diverse and rewarding experience and requires someone with character and the wherewithal to provide service and assistance to the public; and

“WHEREAS, Marilyn deRussy began her employment with the Borough of Hasbrouck Heights on June 9, 1975 as Assistant Secretary/Deputy Registrar of the Health Department, and in 1976 became Secretary/Registrar of the Health Department; and

“WHEREAS, over the past 31 years, Marilyn deRussy has given of herself to the Borough of Hasbrouck Heights and provided an atmosphere of friendliness and compassion when fulfilling the needs of the residents requiring marriage

**PROCLAMATION (cont'd):**

licenses, death certificates and dog licenses, keeping the statistical records in perfect order, working closely with the Board of Health members and health officers, and being a concerned listener to the many requests and complaints; and

“WHEREAS, Marilyn deRussy has called the Borough offices her second home and been a friend and confidant to the many co-workers who crossed her path along the years both in the Municipal Building at 248 Hamilton Avenue, the temporary headquarters at 218-222 Boulevard and in her new office at 320 Boulevard;

“NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Hasbrouck Heights, County of Bergen, State of New Jersey, that they hereby congratulate Marilyn deRussy on her retirement, offer their gratefulness for her exemplary service of 31 years, and extend best wishes for good health, relaxation and happiness in her retirement years.”

/s/ Mayor Ronald R. Jones  
Members of the Council

Mayor Jones offered his congratulations and presented Mrs. deRussy with a Key to the City.

**COMMUNICATIONS:**

- 1) Thank You Letter from Elsie Paolini

Mayor Jones asked the clerk to read the letter into the record:

“Dear Mayor Jones, thank you and members of the Hasbrouck Heights Council for honoring me last night, August 22, for Woman’s Equality Day with a Proclamation. I am amazed to have been chosen from so many other women in town who are so much more worthy.

“It has been a joy to be part of this community and whatever good my volunteer efforts may have achieved has been gladly given.

“Again, thank you. “

Sincerely, Elsie Paolini

**COMMUNICATIONS (cont'd):**

A motion to accept the Communication was made by Councilman Kistner, seconded by Councilman Meli, and unanimously carried.

**PETITIONS:** None

**APPROVAL OF MINUTES:** (April 11, 2006 Work Session and Closed Session, April 25, 2006 Closed Session)

On a motion by Councilman DiPisa, seconded by Councilwoman Saccomano, and unanimously carried, the foregoing Minutes were approved.

**BILLS:**

**BE IT RESOLVED** that the claims and accounts amounting to \$2,289,039.77 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 therefor.

Signed Thomas E. Meli  
Commissioner of Finance

On a motion by Councilman Kistner, seconded by Councilwoman Saccomano, with Councilwoman Skiba abstaining from the claim to Edward Trawinski, Esq., and voting yes for all other, the foregoing Resolution was approved.

**NEW BUSINESS**

**CONSENT AGENDA:** 138. Raffle License - Hasbrouck Heights Music Parents Assoc.

139. Bingo License - Corpus Christi Church

139. Bingo License - Corpus Christi Home School Association

On a motion by Councilman DiPisa, seconded by Councilman Meli, and unanimously carried, the foregoing Consent Agenda Resolutions were approved.

**RESOLUTIONS:** 141. Payroll

142. Dog Licenses - Payment of Fees to State

142. Refund of Overpaid Taxes - Block 136.01, Lot 6

**RESOLUTIONS (cont'd):**

- 142. Approving Extension of Distribution Line of United Water New Jersey in the Public Right-of-way of Ravine Avenue
- 142. Authorizing the Extension of Stormwater Drainage System from the Proposed Extension of Oldfield Avenue into the Drainage Line in the Former Right-of-Way of Washington Place
- 142. Authorizing the Extension of the Public Sanitary Sewerage System from the Proposed Sewerage Line in the Proposed Northerly Extension of Oldfield Avenue into the Existing Line in the Former Right-of-way of Michigan Avenue
- 142. Authorizing a Professional Agreement with Joseph H. Burgis to Prepare a Housing Element and Fair Share Plan to Address the Third Round Rules of COAH
- 142. Awarding Contract for Emergency Repair to Sanitary Sewer Main in Route 17 North "Sidewalk" Area

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

**APPOINTMENTS:** William Spindler as Department of Public Works Superintendent

On a motion by Councilman Introna, seconded by Councilman DiPisa, and unanimously carried, the foregoing Appointment was approved.

Confirming Appointment of Laura French as Board of Health Secretary/Registrar

On a motion by Councilman DiPisa, seconded by Councilman Kistner, and unanimously carried, the foregoing Appointment was approved.

**STATEMENT READ BY MAYOR JONES ON JUDICIAL APPOINTMENT:**

Before the following appointment was made, Mayor Jones read the following statement:

"Every since I was advised last December that Judge Gatto would not seek reappointment as our Municipal Judge, I have done everything possible to distance myself from the appointment process. I clearly stated my reasons for doing so to the

**STATEMENT (cont'd):**

entire Council. Nevertheless, for the benefit of the public, I will state those reasons again.

“As an elected public official, I am very, very aware that I must avoid any partiality in the exercise of my official duties. So, when it became apparent last December that a new Judge needed to be appointed in January, it also became clear to me that I had to be on my guard. The reasons for that are well known to the members of the Council but they should be stated once again for the benefit of the public.

“Back in December of 2002, long before I was Mayor or even actively involved in politics in Hasbrouck Heights, the Governing Body undertook a search for a new Judge to succeed the retiring Harry H. Chandless. From a large field of candidates, two emerged as leading prospects. One of them was a former Board of Ed member who had served in the Court under Judge Chandless as Prosecutor and who became the retiring Judge’s declared first choice as his successor. That candidate was my son, Joe Jones.

“As it turns out, Joe received three votes and the other leading candidate, former Board of Adjustment attorney Janice Gatto got four votes. Miss Gatto was appointed Judge and served for three years while my son continued in his role in the Court as Borough Prosecutor for the next three years.

“When Judge Gatto advised me that she decided to pursue a doctoral degree and would not seek reappointment, it was obvious that my son would again probably become a frontrunner for the appointment. The only problem was that, by this time, I had been elected Mayor. I immediately realized that I had a moral and legal obligation to distance myself from the appointment process.

“That’s why, on December 13, 2005, with the full agreement of the entire Council, I appointed a Judicial Selection Committee. That committee was directed to review all of the seven or so resumes of judicial candidates then on file, search out and consider other candidates, and recommend a new appointee.

“This committee was composed of the Borough Administrator and the Chief of Police because they must work closely with the Judge and former Judge Harry H. Chandless because he knew more about our Court than anyone else. The Council was represented by two members, the senior sitting Councilman and as well as the Council President at the time. I was not represented on that committee even though, as Mayor, I usually sit on all committees.

“All of the Council members were invited to submit resumes of any other possible candidates they could suggest. In fact, one Councilperson did submit three additional resumes for consideration.

**STATEMENT (cont'd):**

“Within a week or so, I was informed that the committee had met as directed and considered all of the resumes. They even considered other possible candidates who had not submitted resumes. The committee then reported that its unanimous recommendation was my son Joe Jones.

“At that time, it was assumed that, in my capacity as Mayor, I would be making the appointment as our Mayors had done for years in the past. But, I decided that it was inappropriate to do so.

“I took my concerns to the Borough Attorney. He advised that he did not believe my appointment would violate the Local Government Ethics Law or any of the Canons of Ethics if it was based on the committee recommendation. But he understood and agreed with my concerns about an appearance of partiality. He reported back to me that he found a provision in the law that he hoped would apply even though never tested in Court which he believed could further distance me from appointment process and leave the entire process to the Council alone without my involvement. He reported his opinion to the entire Council and, under that opinion letter, the Council alone made the appointment of Joe Jones a Borough Judge on January 1, 2006.

“That brings us to this evening’s proceeding. A former Democratic Councilman filed a suit in Superior Court against the Borough challenging the appointment procedure we used and claiming that the appointment was invalid based on my relationship with my son. Just about two weeks ago, the Superior Court ruled that the procedure used in all good faith to avoid any appearance of partiality was not correct and that the correct law requires me as Mayor to make the appointment regardless of appearances.

“But the Court disagreed with the claim regarding any ethical questions. It specifically ruled that no violation occurred of either the Local Government Ethics Law or the Canons of Ethics as the suit claimed. But, more importantly, the Superior Court ruled that, not only must I make the appointment as Mayor, but also that I could do so even if the appointee is my son.

“What I now do, I do under the direction of and with the guidance of the Superior Court. I base my action on the recommendation of our own Judicial Selection Committee and also based on the four to two vote of the Council in January. To avoid any appearance of partiality in the exercise of my official court mandated duty, I will not make a single mention of the merits of the appointee. **IN FACT, I WILL SAY NOTHING FURTHER ON THIS MATTER THIS EVENING.** Instead, I will rely solely upon the conclusions of the committee, the Council’s January vote, and the continued recommendation of our pre-eminent former Judge.

“I hereby appoint Joseph Jones Municipal Judge of the Borough of Hasbrouck Heights for the remainder of the current term of that office and I ask for Council confirmation of that appointment as required by law.”

**APPOINTMENTS (cont'd):**

Municipal Judge - Joseph Jones

On a motion by Councilman DiPisa, seconded by Councilman Kistner, with Councilwoman Saccomano, Councilwoman Skiba, and Councilman Introna voting Nay, Councilman Meli, Councilman Kistner, and Councilman DiPisa voting Yes, and Mayor Jones, who first asked Borough Attorney Chandless if he had the right to break the tie on this, and Borough Attorney Chandless answering for all the same reasons as stated, you do sir, basically if you base it on the reports as you said you have and I rule that under the doctrine of necessity, breaking the tie and voting Yes, the foregoing Appointment was approved.

**RESIGNATIONS:** Confirming Retirement of Marilyn deRussy as Board of Health Secretary/Registrar

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

**ORDINANCE(S) ON INTRODUCTION:**

**ORDINANCE NO. 2142:**

**BE IT RESOLVED** that an Ordinance entitled: **“AN ORDINANCE TO SUPPLEMENT THE CODE OF THE BOROUGH OF HASBROUCK HEIGHTS SO AS TO INCLUDE THEREIN A NEW CHAPTER ENTITLED “CHAPTER 24A, EMINENT DOMAIN, USE OF,” SO AS TO LIMIT THE POWER TO CONDEMN LEGALLY OCCUPIED RESIDENTIAL PROPERTY THAT CONFORMS TO ALL APPLICABLE HOUSING AND MAINTENANCE RULES AND REGULATIONS OF THIS BOROUGH”** was introduced this date be and the same is hereby passed on first reading and the Borough Clerk be directed to advertise notice of public hearing on said Ordinance to be held at the regular meeting of the Borough Council on October 10, 2006.

On a motion by Councilman Meli, seconded by Councilman Kistner, with Councilwoman Saccomano, Councilwoman Skiba and Councilman Introna voting Nay, Councilman Meli, Councilman Kistner and Councilman DiPisa voting Yes, and Mayor Jones breaking the tie by voting Yes, the foregoing Ordinance on Introduction was approved.

**ORDINANCE(S) ON PUBLIC HEARING:**

Mayor Jones opened the public hearing on Ordinance No. 2140 and Ordinance No. 2141 for anyone wishing to speak on these ordinances.

There being no one wishing to speak, the public hearing on these ordinances was closed.

**ORDINANCE(S) ON PUBLIC HEARING (cont'd):**

**ORDINANCE NO. 2140:**

**BE IT RESOLVED** that an Ordinance entitled: **“AN ORDINANCE TO AMEND CHAPTER 28 ENTITLED “FIRE DEPARTMENT” OF THE CODE OF THE BOROUGH OF HASBROUCK HEIGHTS IN RESPECT TO THE RESIDENCY AND DOMICILIARY REQUIREMENTS FOR MEMBERSHIP IN THE VOLUNTEER FIRE DEPARTMENT OF THE BOROUGH OF HASBROUCK HEIGHTS”** 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 Observer, a newspaper circulating and published in the Borough of Hasbrouck Heights.

**ORDINANCE NO. 2141:**

**BE IT RESOLVED** that an Ordinance entitled: **“AN ORDINANCE AMENDING ARTICLE V ENTITLED “CONSUMPTION IN PUBLIC” OF CHAPTER 84 ENTITLED “ALCOHOLIC BEVERAGES” OF THE CODE OF THE BOROUGH OF HASBROUCK HEIGHTS IN RESPECT TO THE EXCEPTION FROM THE GENERAL PROHIBITION OF THE SERVICE AND CONSUMPTION OF ALCOHOLIC BEVERAGES IN PUBLIC PLACES BY WHICH THE VOLUNTEER FIRE DEPARTMENT SHALL BE PERMITTED TO SERVE AND ITS MEMBERS AND GUEST SHALL BE PERMITTED TO CONSUME ALCOHOLIC BEVERAGES WITHIN THE “EXEMPT ROOM” OF THE NEW PUBLIC SAFETY BUILDING”** 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 Observer, a newspaper circulating and published in the Borough of Hasbrouck Heights.

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

**MISCELLANEOUS FROM PUBLIC:**

Mayor Jones opened the meeting to the public.

Bill Bergen, 128 Burr Place, gave an eight-week scenario regarding a tree in front of his home, stating that he had notified PSE&G who came and removed a small branch. He went to the DPW garage twice to have this tree looked at but to no avail. He was also concerned that the property across the street needed maintenance, noting that in the past this was done on an annual basis. Mayor Jones asked DPW Supt. Spindler to check out the tree and clean out the property, who noted he had received this complaint only the day before and had already visited the area. Mayor Jones also asked Mr. Spindler to repair the wire guardrail on the property. Mr. Bergen recommended community service for children.

## **MISCELLANEOUS FROM PUBLIC (cont'd):**

Cindy Schwalb, 167 Field Avenue, referring to Route 17, if this was causing the flooding in front of her home and was told no, this was sanitary. She questioned if adding the homes on Oldfield Avenue would add to her flooding problem. Ms. Schwalb noted high school students are always looking for customer service.

Christian Semenech, 415 Jefferson Avenue, asked to have placed on the record that in the vote tonight, in Judge Tosko's order and summary regarding the Judge's appointment, he said the mayor could break the tie. He was concerned that the Superintendent of Schools Luongo was not present when the Council was voting on his budget.

Steven Altobelli, 67 Hamilton Avenue, questioned if the Judge has to recuse himself from certain cases, and was told it would be appropriate for the Judge to recuse himself from cases of ordinances adopted, the assignment judge suggested he recuse himself in all cases regarding municipal ordinances at no extra cost to the Borough as he is paid per session. He considered it unethical that the Mayor appointed his son as Judge.

Councilman Introna, Councilwoman Skiba and Councilwoman Saccomano gave reasons for their negative vote including the lack of information they were provided and the controversy which followed.

Councilman Kistner, Councilman Meli and Councilman DiPisa gave reasons for their positive vote including their confidence in his competence and qualifications, with Councilman DiPisa reading a portion of the Superior Court's decision.

Councilwoman Skiba asked the Borough Attorney for an explanation of the interpretation of the Mayor breaking a tie, and his opinion was that the current Borough act provides that the Mayor may break all ties.

Several questions were asked regarding recent past council meetings.

Chris Semenech, 415 Jefferson Avenue, read a portion of Judge Tosko's opinion regarding the Mayor's position in voting.

Chris Buxbaum, 146 Berkshire Road, regarding the first vote on Judge Jones which was 4-2, that Mr. Chandless should have advised the Mayor.

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

**RECESS FOR WORK SESSION:**

Mayor Jones announced that the meeting would be recessed for Work Session, to which he invited all present to stay.

**ADJOURN:**

There being no further business to be conducted by the Mayor and Council, the meeting was adjourned at 9:23 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 Mayor and Council Meeting held on September 12, 2006.

Rose Marie Sees, RMC  
Borough Clerk