

**TOWNSHIP OF MAHWAH
COMBINED WORK SESSION AND PUBLIC MEETING MINUTES
THURSDAY, SEPTEMBER 6, 2012**

The meeting was called to order at 8:00PM by Council President Spiech who read the Open Public Meeting Acts Statement as prescribed by law. Notice was advertised in The Record on January 12, 2012 stating this meeting would be held in the Council Chambers at the Richard J. Martel Municipal Center, 475 Corporate Drive in Mahwah, NJ on Thursday, September 6, 2012 at 8:00PM.

Notice of this meeting is posted on the Municipal Bulletin Board. The minutes of this meeting shall be available in the Municipal Clerk's Office once they are approved by the Township Council.

Salute to the Flag

MOMENT OF SILENCE FOR VETERANS AND THOSE SERVING IN THE MILITARY

Moment of Silence was observed for those who served and those who are serving in the military both here in the United States and abroad.

Present: Councilmembers Alderisio, DiGiulio, Larson, Roth, and Spiech.
Absent: Councilmembers Jandris and Williams.

Also present were Mayor William C. Laforet, Business Administrator Brian Campion, Township Attorney Andrew Fede and Municipal Clerk Kathrine G. Coletta.

PUBLIC PORTION

On a motion by Roth, seconded by Alderisio, the meeting was opened to the public at 8:03PM. All in favor. Motion carried.

On a motion by Alderisio, seconded by Roth, the meeting was closed to the public at 8:04PM. All in favor. Motion carried.

WORK SESSION

SUBMISSION OF BILLS AND CLAIMS

Any Councilmember with questions on the Bills and Claims was asked to confer with Council prior to the Public Meeting.

ENGINEERING (Boswell-McClave)

1a. Written Status Report – September 2012

MA1318 – West Airmount Road Drainage Improvements: The Permit Application has been sent to the NJDEP.

MA1337 – 2012 Road, Curb and Sidewalk Improvements: Ridge Road has been paved and stripped. The remainder of the roads will be done in 2 weeks. Project is scheduled to be completed by October 15, 2012.

TOWNSHIP UTILITY ENGINEER (Malcolm Pirnie)

2a. Written Progress Report – September 2012

None.

LEGAL

3a. Analysis of Current Sign Ordinance and Proposed Ordinance #1712; Continuation of Discussion

Spiech said at the last Meeting two Councilmembers were absent so the item was carried to this meeting.

Larson said last week Mr. Sbarra suggested the Sign Ordinance be discussed in January.

Spiech said he spoke to the Township Attorney about restricting signs on MacArthur Boulevard. The Township Attorney said he will research this. He said whatever decision that is made will go beyond election time.

Alderisio asked Spiech to ask the Township Attorney to see if there can be no signs on MacArthur Boulevard. Spiech agreed with Alderisio and said the signs are a safety hazard on MacArthur Boulevard.

Spiech reiterated that where we stand now is with the current Sign Ordinance.

DiGiulio suggested the Ordinance be rewritten.

DiGiulio asked if Administration is going to enforce the sign regulations for this election.

On a motion by Roth, seconded by DiGiulio, the Ordinance will be tabled until the September 20th meeting, due to two people being absent. Roll call vote: Alderisio, yes; DiGiulio, yes; Jandris, absent; Larson, yes; Roth, yes; Williams, absent; Spiech, yes.

ADMINISTRATION

4a. Request for Municipal Consent to Use Township Right-of-Ways for Telecommunications Fiber Optic Cables; Cross River Fiber

Mr. Fred Brody of Cross River Fibers was present. Mr. Brody said he is looking for permission from the Township before going to the Board of Public Utilities. He said they will rent poles from the BPE. Mr. Brody explained the fiber is of high speed.

Mr. Brody said his company will own, operate and maintain the cables.

Township of Mahwah Combined Work Session and Public Meeting Minutes of
September 6, 2012

Spiech asked if technology changes and the cables are no longer needed would they come to take the cables. Mr. Brody answered he was unsure.

Mr. Brody said they pay for the police when the cables are being installed.

Roth asked Mr. Brody if he did a Pole Survey in the Township. Mr. Brody answered no.

Roth said he is unclear what Mr. Brody is doing and where. Mr. Brody said when they figure out their customers they determine where the lines goes.

Spiech suggested Mr. Brody give the Municipal Clerk a copy of his contract for the Township Attorney and Council to review.

Item shall be carried.

4b. Pay to Play Compliance; ESC Enterprises Inc.
Resolution shall be voted on in the Public Meeting.

4c. Eagle Scout – Nicholas Kosmala
Mayor's Proclamation shall be read and Resolution shall be voted on in the Public Meeting.

4d. Review of Pending Tax Appeals (Closed Session)
The Business Administrator said the List is in the process of being prepared. Item will be discussed at the October 4, 2012 Council Meeting.

TOWNSHIP COUNCIL and MUNICIPAL CLERK

- 5a. Raffle Applications
1. HSO George Washington School (On Premise)
 2. VFW Mahwah Memorial Post 7124 (On Premise)
 3. Mahwah Municipal Alliance (On Premise)

The above-mentioned Raffle Applications were tentatively approved. Final approval shall be voted on in the Public Meeting.

5b. Firefighter Application; Brian K. Doolittle to Fire Company #1
Resolution shall be voted on in the Public Meeting.

PUBLIC MEETING

APPROVAL OF BILLS AND CLAIMS

On a motion by Roth, seconded by Larson, the Bills and Claims, previously signed, totaling \$5,139,817.11, were approved. Roll call vote: Alderisio, yes; DiGiulio, yes; Jandris, absent; Larson, yes; Roth, yes; Williams, absent; Spiech, yes. A List of Bills and Claims is on file in the Municipal Clerk's Office.

REPORTS OF TOWNSHIP COUNCIL and MUNICIPAL CLERK

**TOWNSHIP COUNCIL; COMMENTS, COMMUNICATIONS AND REPORTS
OF SUBCOMMITTEES**

DiGiulio said the 9/11 Remembrance Ceremony will be held on September 11th at 7PM on Old Station Lane across from Winters Pond.

Spiech attended the Leaders and Service Panel at Ramapo College. The panel would like some financial statements so they could have a chance to look at our budget and make comments.

The Municipal Clerk reported that Petitions for the General Election for Mayor have been filed by William Laforet and Edward Sinclair. For Council by John Roth, H. DiGiulio, Jonathan Marcus, Todd Van Duren and Steven Sbarra. The Drawing for Position on Ballot will be on September 13th at 10AM in Room #319 in the Municipal Offices.

REPORTS OF MAYOR AND BUSINESS ADMINISTRATOR

Mayor Laforet said he attended the League Leadership Conference at Ramapo College. He said this is an extraordinary five day program which was an introduction into leadership.

Mayor Laforet said he met with the residents of Brook Street regarding flooding. He said we are looking at other measures that can be taken to alleviate the flooding in the area.

The Business Administrator reported that progress is being made for the preparation for Mahwah Day.

MAYOR'S PROCLAMATION

Mayor Laforet read the Proclamation, Eagle Scout – Nicholas Kosmala, into the record.

PUBLIC PORTION

On a motion by Larson, seconded by DiGiulio, the meeting was opened to the public at 8:47PM. All in favor. Motion carried.

Mr. Steven Sbarra of 92 Deerfield Terrace asked for clarity on the Sign Ordinance. He said his confusion was on the existing Ordinance, which has never been enforced, that anyone who wishes to place a sign in the right-of-way must come to the Council for approval. Mr. Sbarra questioned if a person wanting to place a sign in the right-of-way must come and fill out a form and present it to the Council or do they come before Council and make a presentation. Roth said his recollection is there is no form for the request.

Mr. Sbarra asked Council to table Ordinance #1712 until the end of the election. He feels banning signs on MacArthur Boulevard would be discriminatory.

Mr. Bob Lockwood of 10 Homespun Court asked about Public Awareness for the Master Plan. He said he has not seen a lot about the Meetings on the Master Plan. Spiech answered the Master Plan is a providence of the Planning Board. He added that the Township Council does not govern what the Planning Board does.

Mr. Lockwood questioned whether or not the Township has a Facebook page. Mayor answered no.

On a motion by Alderisio, seconded by DiGiulio, the meeting was closed to the public at 9:05PM. All in favor. Motion carried.

CONSENT AGENDA

Resolutions #229-12 to #231-12 and the Raffle Applications for HSO George Washington School (On Premise), VFW Mahwah Memorial Post 7124 (On Premise) and Mahwah Municipal Alliance (On Premise) were voted on under the Consent Agenda. Resolutions are attached to and made part of these Meeting Minutes.

HEARING ON GRIEVANCE

Spiech explained a Hearing will be held on the Grievance filed by Mr. Marc Bracadietta. The DPW Director issued a minor grievance which has a listing based on the contractual obligations with the union. The grievance was issued and disciplinary action was taken. A grievance goes through a series of steps and finally goes before Council. Mr. Bracadietta has the option of an Open or Closed Session and he has opted to have the hearing in Open Session.

Mr. McCarthy of the United Public Service Union explained the grievance where Mr. Bracadietta was suspended for two days for an incident that occurred on July 16, 2012. He stated the union's position is the punishment is excessive and that Marc is an exceptional employee with no other discipline on his record.

Mr. McCarthy said it is his understanding that Chief Batelli provoked Mr. Bracadietta on the incident of July 16, 2012. He further stated, that this was an intense time due to the Recycling issue. He stated it was an unjust decision as another employee had no discipline whatsoever.

Alderisio asked if they are voting on the two day suspension.

The Township Attorney said Mr. Bracadietta will present his side of the story.

Mr. Bracadietta explained the situation that occurred after he spoke out at the July 12, 2012 Council Meeting about recycling. He stated on Saturday July 14, 2012 he received a text message from Lt. Stu Blank that said "U R DEAD to me". Mr. Bracadietta said he tried to get in touch with Stu to iron this out but could not. He further stated, that on Monday, when he was dropping off mail at the Police Station he sat down with Lt. Blank. The Chief came over and told Mr. Bracadietta to get out of the building and then

blocked him from leaving. He said the Chief then started screaming at him, not allowing him to leave. Mr. Bracadietta then used offensive language toward the Chief which provoked the Chief to call Mr. Hallissey and told him to come to headquarters.

Mr. Bracadietta mentioned that he filed an OPRA request at the Municipal Clerk's Office, requesting the audio/video transcript from Police Headquarters. He was told he could not have it as it jeopardized the safety of the building. The Township Attorney said there is no audio/video. The Business Administrator said it was determined that there was no tape recording of the activities the day the incident occurred and the security of the Police Department cannot be discussed in public.

Mr. McCarthy said his concerns are that there is not a clear picture of what happened. He said the employee was provoked by a Department Head. The Chief made one statement to Mr. Hallissey and another statement in writing. Mr. McCarthy feels the Chief was inappropriate and also Lt. Blank in sending the text message. This he said, should have been investigated further. Mr. McCarthy feels the two day suspension for Mr. Bracadietta should be rescinded.

Mr. Hallissey explained his first encounter about the incident of July 16th was the Police Chief telling him he had an altercation with Marc Bracadietta and the language is correct in the memos. Mr. Hallissey said he contacted Marc and the union representative. Marc said he felt threatened and Mr. Hallissey told him if he felt intimidated he should file something official.

Mr. Hallissey said he discussed the situation with the Administrator and came to the conclusions that the stories from the Chief and Marc were similar so he determined Marc should have two days suspension.

Roth asked if the text was brought up or considered in the conversation with Marc. Mr. Hallissey said that was not part of his consideration with his decision and he has not seen the text. Marc said he notified Mr. Hallissey about the message first thing on Monday morning. The Township Attorney explained the text and labeled it Exhibit I.

DiGiulio questioned what prompted Lt. Blank sending this text message. Marc said he did not know and did not think Stu would cross the lines as he did.

Mr. Hallissey said at the time of his decision the issue with all information was verbal. Spiech said the issue is the language and behavior of Mr. Bracadietta.

Mr. Bracadietta said the issue with him was using the "f" word and knows it was wrong of him. He said his issue is why he was kicked out of the building. The Business Administrator said the issue was he was asked to leave the building and it was the nature of his response. The Business Administrator said he told Marc and his union representative that if they believe that the Police Chief acted in an inappropriate manner

Township of Mahwah Combined Work Session and Public Meeting Minutes of
September 6, 2012

they should make a complaint about that employee.

Mr. McCarthy asked the Business Administrator if he interviewed the Police Chief. The Business Administrator said there was no action taken against the Police Chief.

Roth asked if they have filed a complaint based on the text message. Mr. Bracadietta said he in the progress of doing that.

Alderisio read the description that Marc had written and it was different from his testimony this evening. Marc said he did not want to give a lot of information on the report, but wanted to explain it this evening.

Spiech said a decision has to be made based on the knowledge they have from the report and what Mr. Hallissey did. The Township Attorney said the Council has to consider everything presented.

Alderisio said he does not believe the Police Chief blocked Marc's way when he asked him to leave.

DiGiulio asked if the text from Lt. Blank was sent on or off Township time. Mr. Bracadietta answered it was on Township time.

DiGiulio said to Mr. Braccidietta that he cannot tell a Department Head what you think of him and there are other ways to handle the situation. She feels there are two wrongs in this situation.

Larson feels it was in the Chief's right to ask Marc to leave the building.

Roth said the language was unacceptable and feels Marc does know that. He said he also feels what Mr. Hallissey did was reasonable as a Department Head. He said he does not think it is fair that Marc is the only person disciplined.

Spiech echoed what everyone said.

Chief Batelli said Lt. Blank was not the subject of the complaint. He further stated that an Internal Affairs Complaint is being conducted on Lt. Blank and he has been advised of this. Chief Batelli further stated that Lt. Blank and Mr. Bracadietta have had a twenty year friendship. Chief Batelli said that people should know what his style is and it is not what Marc stated. The Chief said he did not administer the punishment.

Alderisio said he has know for Chief Batelli for 30 years and has never seen the Chief display any anger.

Township of Mahwah Combined Work Session and Public Meeting Minutes of
September 6, 2012

On a motion by Alderisio, seconded by DiGiulio to affirm the disciplinary action taken against Marc Bracadietta: Roll call vote: Alderisio, yes; DiGiulio, yes; Jandris, absent;

Larson, yes; Roth, yes; Williams, absent; Spiech, yes.

RESOLUTION

Resolution #232-12 was voted on separately.

OLD BUSINESS

None.

NEW BUSINESS

DiGiulio reminded everyone that the 9/11 Ceremony will be on September 11, 2012 at 7PM.

CLOSED SESSION

On a motion by Roth, seconded by Alderisio, Council went into Closed Session at 10:11PM for the express purposes of discussing:

- C1. Tax Appeal; Block 110.02, Lot 2
- C2. Contract Negotiations; Land Acquisition; Block 56, Lot 74
- C3. Monthly Litigation Report – September 2012

All in favor. Motion carried.

On a motion by Roth, seconded by Larson, Council returned to Open Session at 10:25PM. All in favor. Motion carried.

RESOLUTION

#233-12 Tax Appeal Settlement; Block 110.02, Lot 2

Resolution was removed from the Council Agenda.

On a motion by Larson, seconded by Roth, the meeting was adjourned at 10:27PM. All in favor. Motion carried.

Respectfully submitted,



Kathrine G. Coletta, RMC/CMC/MMC
Municipal Clerk