

**OFFICIAL MINUTES OF THE  
BOROUGH OF BERGENFIELD  
MAYOR & COUNCIL MEETING  
January 27, 2009**

I. Meeting called to order at 8:28 p.m.

II. Roll Call:

Roll Call	Yes	No	Absent
COUNCILMAN TULLY	X		
COUNCILMAN GILLMAN	X		
COUNCIL PRESIDENT LODATO	X		
COUNCILMAN AGUASVIVAS	X		
COUNCILMAN DOLL	X		
COUNCILMAN CARLSON	X		
MAYOR DRISCOLL	X		
CLERK	X		
ATTORNEY	X		

Present were: Carole Chamberlain-Berman, Deputy Clerk  
Bill Betesh, Office of the Borough Attorney

III. **MAYOR DRISCOLL'S STATEMENT – OPEN PUBLIC MEETINGS ACT**

Notice of this meeting was provided on January 23, 2009. It was mailed and/or faxed to The Record, The Star Ledger, Twin Boro News and Cablevision, and placed on the Municipal Bulletin Board for Public Notices, and is on file in the Office of the Borough Clerk. Exits are to the rear and your left. Please turn off all cell phones. There were 35 residents in attendance.

IV. Salute to the Flag led by Councilman Gillman.

V. **MOTION OFFERED** by Councilman Doll, that the minutes of the Reorganization Meeting of January 4, 2009 be approved, **SECONDED** by Councilman Aguasvivas. All in favor. **MOTION** carried.

**PROCLAMATION**

**CONSENT RESOLUTION**

1. **CONSENT RESOLUTION AGENDA #09-0023.** All matters listed below are considered by the Governing Body to be routine in nature. There will be no separate discussion of these items. If any discussion is desired by the Governing Body, that item will be removed from the Consent Agenda and considered separately.

**OFFERED** by Councilman Tully

**SECONDED** by Councilman Carlson

- 1) **09-0024** To Approve Communications
- 2) **09-0025** To Protest Reducing Minimum Funding Level for Municipal Libraries from 1/3 mil to 1/6 mil.
- 3) **09-0026** To Adopt the Bergen County Natural Hazard Mitigation Plan.

Roll Call	Yes	No	Abstain	Absent
TULLY	X			
GILLMAN	X			
LODATO	X			
AGUASVIVAS	X			
DOLL	X			
CARLSON	X			
DRISCOLL				

**RESOLUTION** adopted.

### **VERBAL COMMUNICATIONS**

VI. Mayor Driscoll opened the meeting to Verbal Communications, and asked if anyone present wished to be heard. Please be advised there will be a limit of five (5) minutes per speaker.

1) **CECELIA HAMEL**, 195 East Clinton Avenue

Complained that appraiser left sticker but didn't ring bell or knock. Also, in addition to the receipt of tax bill advice, she received an extra notice in the mail about sewer maintenance and obligation and concerned about the man hours and postage.

2) **VERNON COX**, 116 Highview Avenue

Asked for his copy of the engineer's report on the Cooper House. This would enable him to be able to look into the possibility of filing in 2009 for certain private grants for historic buildings and for private foundations like the Museum Society.

He also received sticker on his door from the appraiser, and are paying for this company to make two attempts to get in.

3) **RICHARD BOHAN SR.**, former mayor, 69 Somers Avenue

Appraiser came but did not look at the back yard. The young gentleman who came into his house said that were only 4 at first and now are 9.

Hopes the council gets some money together to get the soil out of Coopers so we can re-open...it has been closed almost two years.

4) **CHARLES STEINEL**, 16 Ann Street

Asked Councilman Doll if he took a county job after winning election.

C/M Doll said he does work on the Board of Elections, a job he called in for.

Spoke about C/M Doll's attendance at a retirement dinner for which the borough paid for his ticket.

C/M Doll said he made a personal contribution to the honoree.

5) **PAUL HAMEL**, 195 East Clinton Avenue

Asked when the evaluation will be completed.

Mayor said they received an extension from the County Tax Board.

Asked when tax appeals are due.

Mr. Betesh responded May 1<sup>st</sup>. Mayor said you will get a letter with an estimate of what your taxes will be and you'll be invited down to the borough hall if you have a problem.

6) **DIANA FLAGG**, 131 Hillside Avenue

Asked if there is enough salt for tomorrow's storm.

Believes there is an extension for tax appeals because we are being re-evaluated this year.

Waiting for card with extension and taxes that we receive each year usually in February.

7) **IRVING COMMIKE**, 51 Wilbur Road

This card will be sent out by the county in February with the amount you paid for the 2008 taxes and the 2008 assessment. An extension on appeals is May 1<sup>st</sup> in the year you are reassessing. You will also be able to check your assessment on the website.

8) **MARTIN DUBNO**, 111 Deerfield Street

Commented on S.I.D. \$30,000 in repairs on Phase I, and believes the county should come in and make the repairs, irrespective of whether it was improper workmanship or settlement. It is a county road and they should be responsible.

9) **JOHN SCAGLIOTTI**, Director of Recreation

Spoke in support of the bond ordinance to clean up Coopers Pond, secondly, we have not done anything in the parks for a very long time and part of that money will be refurbishing the parks which will allow them to be on par in the State of New Jersey. Liability laws have changed, a lot of our park equipment is outdated and we are under severe problems with liability that could happen because of this inferior equipment in the parks. We want to bring our parks back into code.

Mayor said we just received a report from our insurance carrier and they quoted a lot of problems with the parks. He will distribute that report tomorrow.

There being no one else who wished to be heard, Mayor Driscoll closed Verbal Communications.

VII.

**UNFINISHED BUSINESS**

2. **CY2009 SID BUDGET PUBLIC HEARING**

**MOTION OFFERED** by Councilman Tully, **SECONDED** by Councilman Carlson, that the time for the hearing on the Bergenfield Special Improvement District Budget for CY2009 be opened to the public.

Roll Call	Yes	No	Abstain	Absent
TULLY	X			
GILLMAN	X			
LODATO	X			
AGUASVIVAS	X			
DOLL	X			
CARLSON	X			
DRISCOLL				

**MOTION** carried.

Mayor Driscoll asked if anyone present wished to be heard.

1) **RICHARD BOHAN**, 69 Somers Avenue, SID Board Member

Explained that the \$30,000 is to repair the streets that are in disarray from the first contractor that we had and we want to make it look like it should. Believes SID is doing a wonderful job trying to bring in people.

2) **WALTER JOHNSON/DON SMARTT, SID DIRECTOR**

Thanked C/M Gillman for his service on the board last year and look forward to working with C/M Aguasvivas this year. Also thanked the council for their past support.

Explained from the curb line to the building on the property line, that's a borough easement, a public right of way that is owned by the individual property owner and he believes that, according to borough ordinances, every property owner must maintain their sidewalks in a

safe manner. These pavers need leveling so we are taking the contributions from the property owners and returning it to them in the form of these repairs. They are helping the small family-owned businesses of this community advertise in a down market.

- 3) **MARTIN DUBNO**, 111 Deerfield Street  
Believes the property owner should pay for their own repairs.

There being no one else who wished to be heard, Mayor Driscoll closed the time of the hearing.

- 3. **RESOLUTION 09-0027** To Adopt SID2009 Budget, **OFFERED** by Councilman Gillman, **SECONDED** by Councilman Carlson, attached.

Roll Call	Yes	No	Abstain	Absent
TULLY	X			
GILLMAN	X			
LODATO	X			
AGUASVIVAS	X			
DOLL		X		
CARLSON	X			
DRISCOLL				

**RESOLUTION** adopted 5 ayes – 1 nay.

- 4. Mayor recommends and nominates Helene C. Herbert as Municipal Court Judge, for a three-year term, expiring 12/31/2011.

Council President Lodato explained that at the January 4<sup>th</sup> Reorganization Meeting, he made a motion to table it. It was not in any manner against Ms. Herbert, but it was because he thought in the process which was followed in reviewing RFQs, there was an improper exclusion of one of the candidates. Since that time, 23 days has passed and there has been no action to address his concerns. On Friday, they received a memorandum from the Borough Attorney but they have not had the opportunity for any discussion on it. For that reason, he feels nothing has changed since January 4<sup>th</sup>, the council has not made a decision to either reject or to ratify the act that was done by the committee. He believes until that time, the matter should remain on the table.

**MOTION TO CONTINUE TO TABLE RESOLUTION** To Confirm Mayor’s nomination of Helene C. Herbert as Municipal Court Judge, **OFFERED** by Council President Lodato, **SECONDED** by Councilman Doll.

Roll Call	Yes	No	Abstain	Absent
TULLY	X			
GILLMAN		X		
LODATO	X			
AGUASVIVAS	X			
DOLL	X			
CARLSON		X		
DRISCOLL				

**MOTION** To Table carried 4 ayes – 2 nays.

Councilman Carlson believes that a motion to table this nomination is nothing more than a motion to take the Mayor’s nominating power away.

Council President Lodato explained that his position is that the rejection was in error.

Mayor Driscoll responded that the rejection is according to state law.

Councilman Carlson suggested that there be a meeting next Tuesday, the 3<sup>rd</sup> and advertise this special meeting. He feels the council may need some more work sessions to avoid matters being carried over and over.

**MOTION OFFERED** by Councilman Carlson, **SECONDED** by Councilman Gillman, to have a special meeting on Tuesday, February 3<sup>rd</sup> to discuss this nomination and any other matters necessary for discussion. All in favor. **MOTION** carried. (Meeting date was later changed to 02/04)

5. **MOTION TO REMOVE RESOLUTION** to Enter Into Agreement for CDL Random Drug and Alcohol Testing from the table, **OFFERED** by Councilman Tully, **SECONDED** by Councilman Doll.

Roll Call	Yes	No	Abstain	Absent
TULLY	X			
GILLMAN	X			
LODATO	X			
AGUASVIVAS	X			
DOLL	X			
CARLSON	X			
DRISCOLL				

**MOTION** carried.

**RESOLUTION 09-0028** To Enter Into Agreement with Conner Strong Risk Control for CDL Random Drug and Alcohol Testing Program for 2009, **OFFERED** by Councilman Gillman, **SECONDED** by Council President Lodato, attached.

Roll Call	Yes	No	Abstain	Absent
TULLY	X			
GILLMAN	X			
LODATO	X			
AGUASVIVAS	X			
DOLL	X			
CARLSON	X			
DRISCOLL				

**RESOLUTION** adopted.

6. **INTRODUCTION OF BOND ORDINANCE 09-2415**  
 (formerly 08-2414 - insufficient vote on 12/23/08 3 ayes-1 abstention-2 absent)  
**“BOND ORDINANCE TO AUTHORIZE THE MAKING OF VARIOUS PUBLIC IMPROVEMENTS IN, BY AND FOR THE BOROUGH OF BERGENFIELD, IN THE COUNTY OF BERGEN, STATE OF NEW JERSEY, TO APPROPRIATE THE SUM OF \$576,800 TO PAY THE COST THEREOF, TO APPROPRIATE A COUNTY GRANT, 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”.**

Councilman Gillman stated that he understands there are not going to be enough to pass the Bond Ordinance and the ramifications of not passing it are a big deal. We have contaminated soil that is sitting in a pond that some councilmembers have wanted to use as road salt and build walls around it. There is also an issue about an environmental trailer in the back of the Borough Hall and there are ramifications to that. Since we are having a special meeting, he would certainly like the borough attorney to get some information from DEP on what our liability is here for leaving the trailer off or not operating to clean out the air. All of us should have learned a lesson from the situation in Paramus about leaving contaminated soil on borough-owned property. Certainly, the other issue of matching funds to a grant we applied to every year, twice a year, there is no way fiscally we can put these types of projects into our budget. One of our projects was Ross

Applegate Project that actually started funding in 2003 and it took until 2008 to complete the funding to do that type of a project. If the council wishes not to go forward on these projects, then we shouldn't vote to put two applications in and instruct our grantwriter not to write these grants if we are not going to fund them. We are in jeopardy of future funding from the borough. We received a report tonight that some of the parks are in dire straits and need to be addressed before the next insurance risk, he thinks we should have the risk manager's opinion on some of these issues. He will make a motion to table this to avoid any more attorney's fees to re-introduce it and that we table it until the next meeting so we can have a discussion.

C/M Tully said last week, he wanted to split this bond into two, one for the parks and one to clean up the contamination. It is his understanding that he cannot do this until this bond is voted down, and asked if it can be amended. Mr. Betesh will check with Bond Counsel.

**MOTION OFFERED** by Councilman Gillman, **SECONDED** by Councilman Tully, that Ordinance 09-2415 be tabled.

Roll Call	Yes	No	Abstain	Absent
TULLY		X		
GILLMAN	X			
LODATO	X			
AGUASVIVAS		X		
DOLL		X		
CARLSON	X			
DRISCOLL(tie_	X			

**MOTION TO TABLE** carried.

Mayor Driscoll said that this bond ordinance consists of (3) elements, getting the dirt out of the park; fixing the pollution in the back; and some park equipment. The total bond issue will cost the average household \$4.84. The piece that is being objected to by many people up here is the park improvements which will cost you \$1.89 per year.

C/M Doll said this bond issue in financial costs and architects will cost \$116,300 to get \$312,700. You are paying 37% to borrow.

C/M Tully doesn't support not cleaning up Coopers Pond but believes the two issues are separate from each other, one for the cleaning up of Coopers Pond, something that we have to do, and parks. They are lumped in together to force us to vote for parks and considering the economic times, he doesn't think it is time to vote for a project of that nature.

### **NEW BUSINESS**

8. **RESOLUTION 09-0029** To Approve Change Order #3 and **Final** for Improvements to Athletic Fields at Ross Applegate Park by Sita Construction Co., Inc. in the amount of \$35,134.38, **OFFERED** by Councilman Gillman, **SECONDED** by Council President Lodato, attached.

Roll Call	Yes	No	Abstain	Absent
TULLY	X			
GILLMAN	X			
LODATO	X			
AGUASVIVAS	X			
DOLL	X			
CARLSON	X			
DRISCOLL				

**RESOLUTION** adopted.

C/M Tully asked why it is an extra \$35,000 on the costs. Joe Pomante, Boswell, explained that this is additional fence that was authorized, mulch, extra tree, and is basically housekeeping on these items.

9. **RESOLUTION 09-0030** To Approve the Revised Proposal of Boswell Engineering for the Preparation of Construction Plans, Specifications and Construction Inspection to Utilize 2007 and 2008 Community Development Block Grants totaling \$185,014.00 for Bradley Avenue, Bell Place and Raum Place Resurfacing, Curb Repairs and Cuts, **OFFERED** by Councilman Tully, **SECONDED** by Councilman Carlson, attached.

Roll Call	Yes	No	Abstain	Absent
TULLY	X			
GILLMAN	X			
LODATO	X			
AGUASVIVAS	X			
DOLL	X			
CARLSON	X			
DRISCOLL				

**RESOLUTION** adopted.

10. **RESOLUTION 09-0031** To Authorize Boswell Engineering for the Preparation of Design Plans, Specifications and Application Related Documents for Submission of Phase I – Sanitary Sewer Rehabilitation Project to the New Jersey Environmental Infrastructure Trust for an amount not to exceed \$25,000, **OFFERED** by Councilman Gillman, **SECONDED** by Councilman Doll, attached.

Roll Call	Yes	No	Abstain	Absent
TULLY	X			
GILLMAN	X			
LODATO	X			
AGUASVIVAS	X			
DOLL	X			
CARLSON	X			
DRISCOLL				

**RESOLUTION** adopted.

11. **RESOLUTION 09-0032** To Remove Catherine Navarro-Steinel from the position of Borough Administrator, effective immediately, **OFFERED** by Councilman Doll, **SECONDED** by Councilman Aguasvivas, attached.

Roll Call	Yes	No	Abstain	Absent
TULLY	X			
GILLMAN	X			
LODATO	X			
AGUASVIVAS	X			
DOLL	X			
CARLSON	X			
DRISCOLL				

**RESOLUTION** adopted.

12. **RESOLUTION 09-0033** To Appoint Carole Chamberlain-Berman as Acting Borough Clerk, effective immediately, **OFFERED** by Councilman Doll, **SECONDED** by Council President Lodato, attached.

Roll Call	Yes	No	Abstain	Absent
TULLY	X			
GILLMAN	X			
LODATO	X			
AGUASVIVAS	X			
DOLL	X			
CARLSON	X			
DRISCOLL				

**RESOLUTION** adopted.

C/M Carlson thanked Carole and Linda for backing them up during this time.

13. Mayor recommends and nominates Michael Purvin, Esq., as Borough Prosecutor for a one-year term, term expiring 12/31/09. **PULLED**
14. Mayor recommends and nominates Kelly Rocco, Esq., as Alternate Borough Prosecutor for a one-year term, term expiring 12/31/09. **PULLED**
15. RESOLUTION TO CONFIRM APPOINTMENTS **PULLED**
16. **RESOLUTION 09-0034** To Pay Bills, **OFFERED** by Councilman Carlson, **SECONDED** by Councilman Tully, attached.

Roll Call	Yes	No	Abstain	Absent
TULLY	X			
GILLMAN	X			
LODATO	X			
AGUASVIVAS	X			
DOLL	X			
CARLSON	X			
DRISCOLL				

**RESOLUTION** adopted.

### **COMMITTEE/DEPARTMENT REPORTS**

- VII. **MOTION** offered by Council President Lodato that the Committee/Department Reports be spread upon the minutes in full and filed. **SECONDED** by Councilman Gillman. All in favor. **MOTION** carried.
- VIII. At this time, the Governing Body may go into **CLOSED SESSION** to discuss:
  - Personnel
  - Legal/Litigation

**RESOLUTION 09-0035** To Authorize Entering Into Closed Executive Session at 9:20 p.m., **OFFERED** by Councilman Lodato, **SECONDED** by Councilman Gillman, attached. All in favor. **RESOLUTION** adopted.



**ADJOURNMENT**

- IX. There being nothing further to come before the meeting on **MOTION** offered by Council President Lodato, **SECONDED** by Councilman Gillman, and carried the public meeting adjourned at 10:00 p.m.

Respectfully submitted,

Carole Chamberlain-Berman  
Acting Borough Clerk

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Timothy J. Driscoll, Mayor