

**OFFICIAL MINUTES OF THE
BOROUGH OF BERGENFIELD
MAYOR & COUNCIL MEETING
June 23, 2009**

I. Meeting called to order at 7:00 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		
ADMINISTRATOR	X		
CLERK	X		
ATTORNEY	X		

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

Notice of this meeting was provided on June 19, 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.

IV. Salute to the Flag led by Councilman Gillman.

V. **MOTION** Offered by Councilman Gillman to suspend the regular order of business in order to make Police Department Promotions, **SECONDED** by Councilman Aguasvivas. All in favor. **MOTION** carried.

PROMOTIONS

Borough Administrator McGarril reads biography of the new Chief of Police

Captain Michael F. Monaghan to Chief of Police

a. **RESOLUTION 09-0168** To Promote Captain Michael F. Monaghan to the position of Police Chief, effective immediately, **OFFERED** by Councilman Gillman, **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.

Chief Michael Monaghan is sworn in by Council President Lodato, Esq.

Borough Administrator reads biography of the following officers.

Lt. Michael T. Carr to Captain

- b. **RESOLUTION 09-0169** To Promote Lieutenant Michael Carr to the position of Police Captain, **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.

Captain Michael Carr is sworn in by Council President Lodato, Esq.

Lt. Thomas J. Yurkin to Captain

- c. **RESOLUTION 09-0170** To Promote Lieutenant Thomas Yurkin to the position of Police Captain, **OFFERED** by Councilman Gillman, **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.

Captain Thomas Yurkin is sworn in by Council President Lodato, Esq.

- d. Comments and Congratulations from Governing Body.
- e. Chief Monaghan thanked the Mayor and Council for giving him the opportunity to lead the department and for filling the two Captains positions. He acknowledged and thanked the former chiefs in attendance tonight, Richard Baroch and Ed Carroll, also Tom Lucas, as well as retired chief, Borough Administrator Rick McGarril for all his support and look forward to working with him now.
- f. At 7:46 p.m., the Governing Body went into Recess until 8:00 p.m.

- g. **MOTION** offered by Councilman Aguasvivas to resume the Regular Order of Business at 8:15 p.m., **SECONDED** by Councilman Carlson. **MOTION** carried.

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		
ADMINISTRATOR	X		
CLERK	X		
ATTORNEY	X		

- V. **MOTION OFFERED** by Council President Lodato, that the minutes of the Council Meeting of May 19, 2009, the Special Meeting of May 28th, 2009 and the Work Session of June 9, 2009 be approved. **SECONDED** by Councilman Gillman. All in favor. **MOTION** carried.

PROCLAMATION/PRESENTATIONS

Don Smartt, Bergenfield SID

Mr. Smartt reviewed the Mall in a Mile campaign that the SID has been promoting to encourage local shopping. They have done extensive advertising in the Record and Twin Boro News for Dining and Home Improvements as well as public relations with the planting program. We are helping local businesses in these tough economic times matching them dollar for dollar giving them the opportunity to advertise their own businesses. In May, we started giving out \$250. each month in gift certificates requiring registration on line. C/M Aguasvivas' background in web has helped them and they are beginning to measure the results of using the internet. We also did some further advertising in the Suburbanite.

The new Fitness Center will open this weekend and is a \$200,000 investment which he feels will be a great asset to the town. They organized parking with the help of the Zoning Board and he suggested going through the building to see what a great job they did.

He thanked Joe Pomante of Boswell Engineering for inspecting the pavers and determining that they just need re-leveling and should be repaired by Labor Day.

Also, there is a new bread company opening soon. It's a two level facility with front and rear entrances.

C/M Gillman had one complaint about all the businesses in town put out their black garbage bags all over the front of Washington Avenue front 3 o'clock on. Every spot that they put it has a big huge stain on. The ordinance states that you have to put it in a garbage can and he suggested telling them that they cannot put their garbage out until after 6 p.m. and it has to be in a container. Mr. Smartt said that he will have the ordinance hand delivered to every tenant in the business district.

CONSENT RESOLUTION

1. **CONSENT RESOLUTION AGENDA #09-0171.** 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 Carlson **SECONDED** by Councilman Gillman

- 1) **09-0172** To Approve Communications
- 2) **09-0173** To Cancel Prior Year Outstanding Checks
- 3) **09-0174** To Cancel Improvement Authorizations
- 4) **09-0175** To Cancel Various Receivable Balances
- 5) **09-0176** To Cancel Various Balances
- 6) **09-0177** To Hire Summer Recreation Counselors, as attached

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) **DIANA FLAGG**, 131 Hillside Avenue
Questioned how well the businesses are doing in Bergenfield when some are behind in their property taxes and perhaps it is the high taxes.
Asked if the new Massage Parlor on the avenue has been licensed.
B/A McGarril responded that they provided the documentation to the Police Department to get the license to open and to have their individual employees licensed. And, the Police Department from time to time will do spot checks to make sure the people in there have the appropriate license.
Asked about a Pay-To-Play Ordinance.
C/M Carlson said we have established a procedure that anyone who is seeking a position has to comply with some pretty strict requirements, showing what donations they made.
Ms. Flagg asked if a donation is only money or is it service.
Mayor Driscoll said in 2008, he had a specification prepared which bidders have to conform to, imposing Title 19:44 which requires certification of how much money you have given to a whole bunch of different people and if you have given over \$300, you cannot work for this town....that is all the state requires us to do and we apply that to our vendors.
Asked about the redacted cell phone bills.
Borough Clerk responded that she conferred with the Borough Attorney's office who obtained a decision from the Government Records Council that yes, we can redact the telephone numbers.
Mayor Driscoll said if we don't know it is an unlisted phone number, we must redact it.
Mr. Betesh spoke with the GRC and is familiar with the statute. The issue is that under OPRA, non-published phone numbers are to be redacted....the problem is determining which ones are published and which are not published as there are not any names, just locations. In addition, cell phone numbers are not published.

- 2) **GUS CONSTANTINOU, 20 Irving Place**
Asked if there had been any further communication with the attorney for Landmark as to the use of the property between Annex Place and West Johnson Avenue.
How many tax appeals have been made for commercial and large residential properties such as Foster Village.
Mr. Betesh said there is a separate attorney for Tax Appeals and they do not have that information readily available. He believes the Bergen County Tax Board had Bergenfield hearings last week.
- 3) **I. BUCHHEISTER, 39 Cedar Road, Dumont**
Complained about smell from rotting vegetative site. In previous administrations in June, July and August, there was an alternate site to dump.
B/A McGarril said he spoke with the DPW Superintendent last week and that is going to be rectified.
- 4) **STEW GAMPER, 12 South Stoughton Place**
Spoke about the rat problem in his neighborhood and that they have exterminated all of their properties with their money. They want the town to further educate everybody else in the borough as to the problems that exist.
Mayor Driscoll said we do have some problems with people not covering their garbage. He wants the council to educate the entire town to work together to cover your garbage, don't leave water out, don't leave bird feed out, don't put grass in the garage.
C/P Lodato suggested that a flyer be put out by the Board of Health, on the website and perhaps in the Twin Boro News.
- 5) **RESIDENT OF 26 HARCOURT AVE**
Since the work at Coopers Pond this has gotten serious. He has seen the rats run across the road late at night.
- 6) **RAYMOND GORMAN, 10 Sieber Court**
Spoke about the bus shelters and that the one in front of borough hall is too narrow; the recycling group (ecology committee) should maybe get a poster contest to get some attention; the landscapers and contractors should be informed that there should be no noise until 8 a.m.; overnight parking prohibits an officer from looking down the street and seeing anything or anyone that shouldn't be there and that this may introduce new problems; asked about the percentage level increase in the new budget.
C/M Carlson said that they have restored the quality of life inspectors and you will see a card on the door indicating violations. He would like to see the legality of these 3 inspectors taking over the garbage violations, right now it is the health department. Regarding the overnight parking, he has heard stories of the person living down the street but not wanting to clutter their house so they will park 3 houses down in front of the neighbors.
Mayor Driscoll said in the new ordinance the enforcement will be turned over to the Code Enforcement group.
- 7) **KATHLEEN FERGUSON, 15 South Stoughton Place**
Concerned about West Main Street from the New Milford border and the need for paving, it's a pothole mess. Every one cuts the light making their street a thoroughfare. People do not observe the 25 mph and her street is a cut through to the high school and the grammar school.

Concerning the rat problem, C/M Gillman asked what the private exterminator believe the rats were coming from.

Mr. Gamper said they are not dirty, their neighborhood is beautiful, why do these rats keep coming back.

B/A McGarril said he sympathizes as he lives close to Twin Boro Park and right now he has a rat trap out because when he lets his dogs out a night, they chase them around the yard. The rats will go wherever there is a source of food, anything from garbage being left open to people feeding birds. We will make every effort to take suggestions and will speak to Mr. Volpe about putting out a flyer and will contact Steve Kellman from the Twin Boro News about an article.

8) **CHET UMSTEAD, 32 Harcourt Avenue**

Also has problem with rats and has killed a few of them. Everyone keeps their property nice but the neighborhood has had this problem for at least 10 years or so. The town used to put pellets in the sewer, but it kills other animals and the fish. Reid Avenue also has problems.

9) **LILLIAN UMSTEAD, 32 Harcourt Avenue**

Complained about speeding on the block. Asked if an officer could monitor the cars and motorcyclists.

B/A McGarril said he will ask the Police Department to look into it, but usually when we do an enforcement effort on a local block, most of the people we are giving tickets to are the residents.

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

VII. **UNFINISHED BUSINESS**

2. **INTRODUCTION OF ORDINANCE 09-2410**

MOTION OFFERED by Councilman Carlson , that Ordinance 08-2410 “An Ordinance Amending Chapter 236 of the Code of the Borough of Bergenfield, Entitled ‘**PUBLIC RECORDS, ACCESS TO**’ “.be introduced and read by title only on first reading. **SECONDED** by Councilman Doll. All in favor. **MOTION** carried.

3. **RESOLUTION 09-0178** To Pass Ordinance 09-2410 on first reading, **OFFERED** by Councilman Carlson, **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.

NEW BUSINESS

4. **RESOLUTION 09-0179** To Approve Transfer of Appropriations in the FY2009 Budget. **OFFERED** by Councilman Carlson, **SECONDED** by Councilman Gillman, attached.

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

RESOLUTION adopted.

5. **RESOLUTION** To Approve Temporary Appropriations Prior to the Adoption of the 2010 Budget, **OFFERED** by Councilman Carlson, **SECONDED** by Councilman Gillman, 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 ORDINANCE 09-2417**
MOTION OFFERED by Councilman Aguasvivas, that Ordinance 09-2417 “An Ordinance Amending Chapter 136 of the Code of the Borough of Bergenfield, Entitled ‘**CONSTRUCTION CODES, UNIFORM**’ “.be introduced and read by title only on first reading. **SECONDED** by Councilman Tully. All in favor. **MOTION** carried.

7. **RESOLUTION 09-0181** To Pass Ordinance 09-2417 on first reading, **OFFERED** by Councilman Aguasvivas, **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.

- 8&9 **INTRODUCTION OF ORDINANCE 09-2418 PULLED**
“An Ordinance Amending Chapter 232 of the Code of the Borough of Bergenfield, Entitled ‘**PROPERTY MAINTENANCE**’ was pulled for more discussion and additions.

10. **INTRODUCTION OF ORDINANCE 09-2419 (Regulating Towing Services)**
MOTION OFFERED by Councilman Gillman, that Ordinance 09-2419 “An Ordinance Amending Chapter 284 of the Code of the Borough of Bergenfield, Entitled ‘**TOWERS**’ “, be introduced and read by title only on first reading. **SECONDED** by Council President Lodato.. All in favor. **MOTION** carried.
11. **RESOLUTION 09-0182** To Pass Ordinance 09-2419 on first reading, **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.

12. **INTRODUCTION OF ORDINANCE 09-2420**
MOTION OFFERED by Councilman Doll, that Ordinance 09-2420 “An Ordinance Amending Chapter 215 of the Code of the Borough of Bergenfield, Entitled ‘**NOISE**’ “, be introduced and read by title only on first reading. **SECONDED** by Councilman Carlson. All in favor. **MOTION** carried.
13. **RESOLUTION 09-0183** To Pass Ordinance 09-2420 on first reading, **OFFERED** by Councilman Carlson, **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.

14. **RESOLUTION 09-0184** To Authorize Fee To Notarize Documents for Borough Residents and Members of the Public, **OFFERED** by Councilman Doll, **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.

15. **RESOLUTION 09-0185** To Authorize the Settlement of Tax Appeal for Knickerbocker Country Club v. Borough of Bergenfield Pertaining to Block 286, Lot 1, Docket No. 006342-08, **OFFERED** by Councilman Doll, **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.

16. **RESOLUTION 09-186** To Approve Additional Liquor Licenses for the 2009-2010 Term. **OFFERED** by Councilman Gillman, **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.

17. **RESOLUTION 09-0187** To Return Retired Police Officers to the Bollinger Prescription Plan per Arbitrator's Final Award of December 5, 2008, **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.

18. **RESOLUTION 09-0188** To Pay Bills, **OFFERED** by Councilman Carlson, **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.

COMMITTEE/DEPARTMENT REPORTS

VIII. **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.

IX. At this time, the Governing Body may go into **CLOSED SESSION** to discuss:

Personnel
Legal/Litigation
Landmark/Planning Board
FMBA Contract Negotiations

RESOLUTION 09-0189 To Authorize Entering Into Closed Executive Session at 9:15 p.m., **OFFERED** by Councilman Gillman, **SECONDED** by Councilman Doll. All in favor. **RESOLUTION** adopted.

ADJOURNMENT

X. There being nothing further to come before the meeting on **MOTION** offered by Council President Lodato, **SECONDED** by Councilman Carlson, and carried the public meeting adjourns at 10:35 p.m.

Respectfully submitted,

Carole Chamberlain-Berman
Acting Borough Clerk

Timothy J. Driscoll, Mayor