

**BOROUGH OF DUMONT
BERGEN COUNTY, N.J.
EXECUTIVE SESSION MINUTES
DUMONT SENIOR CENTER
FEBRUARY 7, 2017
6:30 PM**

Mayor Kelly called the meeting to order.

Flag Salute, Moment of Silence

Sunshine Law: The notice requirements of the Open Public Meetings Act of the State of New Jersey have been satisfied by the inclusion of the date, time and place of this regular meeting in the annual schedule and notice of regular meetings of this Governing Body. Such annual schedule and notice of regular meetings is posted at Borough Hall, was sent to *The Record* and the *Ridgewood News*, posted on the Borough website and filed with the Borough of Dumont.

Roll Call:

Council members: Correa, Di Paolo, Manna, Morrell, Riquelme-present

Mayor James Kelly-present

Mayor Kelly stated that Matt Hayes passed away over the weekend, succumbing to a very aggressive form of cancer. He spoke of his hard work and dedication in raising money to help those in need, dedicating much of his spare time to the church, Knights of Columbus and the community. As a council member, he did everything he could for the residents of Dumont. He will be sorely missed.

Motion to pull Resolution #17-65 from the Consent Agenda to vote on at this time:

Councilman Manna

Motion to approve #17-65- Appointment of Jared Geist to Fill the Unexpired Term on the Council; term to Expire December 31, 2017: Councilman Manna

Second: Councilwoman Correa

Roll call vote: Council members Correa, Di Paolo, Manna, Morrell, Riquelme-yes

The Oath of Office was administered to Councilman Jared Geist by Senator Gerald Cardinale.

Roll Call:

Council members Correa, Di Paolo, Geist, Manna, Morrell, Riquelme-present

Mayor Kelly-present

Motion to accept agenda as presented: Councilman Morrell

Second: Councilman Riquelme

All in favor.

Review of Consent Agenda Items: All items with an asterisk are considered to be non-controversial by the Council and will be approved by one motion. There may be further

discussion prior to the vote upon request of a member of the public or a Council member. Also, any item may be removed for further discussion or for roll call vote in which case the item will be removed and considered in its normal sequence as part of the general order of business.

RESOLUTIONS

#17-55 Authorization for the Municipal Clerk to Advertise for RFQ for IT Services *
Councilman Manna asked for an explanation. The Municipal Clerk responded that more services will be required for the new Borough Hall so the Borough will advertise for the RFQ.

#17-56 Judy Heldman-Appointment as Dixon Homestead Library Trustee *

#17-57 Approval of LOSAP Contribution *

#17-58 Support of Filing a Complaint-Criminal Justice Reform Act Unfunded Mandate *

#17-59 Authorization of Curfew for Meetings of the Governing Body-10:30PM *

Councilman Manna asked for an explanation and assurance it would not limit the public from speaking. Mayor Kelly stated that by establishing a curfew, the Council would have ample time to discuss items in closed session but it is a soft restriction.

#17-60 Appointment of Burgis Associates-Borough COAH Planner for 2017 *

#17-61 Appointment of CME Associates-Borough Planner for 2017 *

#17-62 Environmental Renewal, LLC-Approval as Yard Waste Transfer Site *

#17-63 Endorsement of Housing Authority Community Development *

#17-64 Approval of Knights of Columbus Casino Night to be held March 11, 2017;
ID#109-6-7021; RL#468 *

#17-66 Appointment of Jared Geist as Class III member of the Joint Land Use Board *

Councilman Geist questioned the lateness of some of the bills being paid on tonight's bills list. Mr. Herr explained that many times the vendors submit their bills late. The Councilman requested that the Bills List resolution be moved to non-consent so that he can abstain, since he hasn't had time to review it completely.

Councilwoman Correa said that she was in Borough Hall today and examined every bill in detail.

Motion to open to the public on Consent Agenda items: Councilman Riquelme

Second: Councilman Manna

All in favor.

1. Lili Binney, 32 Roxbury Road, asked if every vendor is told not to submit a bill without an invoice. The answer was yes.

2. Bruce deLyon, 67 Beacon Street, asked whose decision the 10:30 curfew was. Councilwoman Correa responded that she had had a discussion with Council President Manna. She had conferred with other council members and said that after 10:00 she is nonfunctional and does not want to make important decisions at 11:00. If there isn't enough time, she feels another meeting can be called to finish the discussion. Dr. deLyon questioned the timing and why the attorney was paid to write the resolution.

3. Tom Gorman, 46 Wilcox Street, asked about a bill to Shamrock Sprinklers.

Councilwoman Correa had seen it and Finance has voided it.

Motion to close to the public: Councilman Morrell

Second: Councilman Manna

All in favor.

Motion to adopt the Consent Agenda without Resolution #54-Bills List and #65, which was voted upon already: Councilwoman Correa

Second: Councilman Manna

Roll call vote: Council members Correa, Di Paolo, Geist, Manna, Morrell, Riquelme-yes

Non-consent Agenda

#17-54 Bill List

Motion to adopt: Councilman Morrell

Second: Councilman Manna

Roll call vote: Council members Correa, Di Paolo, Manna, Morrell, Riquelme-yes
Councilman Geist-abstained

Councilman Manna spoke of Resolution #248, which was adopted in November. He would like the Council to consider rescinding it or putting a stay of sixty days on any action pertaining to it. There has been no appendix received since then. Mr. Paster stated that there has been no further action on that. The Councilman also questioned document BER-L-6065-15 in that resolution. He also asked about the follow up documentation that was supposed to be annexed to this document. He wants to make sure the town is protected from further suit going forward. He finds Fair Share Housing suspect as far as their numbers and methodology. Because we have a new councilman and new COAH planner, we should allow them to be brought up to speed. He would like to see documentation about the negotiations. He apologized for not giving the Mayor a heads up. There was discussion as to whether to void or table Resolution #248. Councilman Geist asked the borough attorney if there was any harm in delaying this. Mr. Paster replied that there isn't any danger that anything will happen in the next sixty days. He would prefer to discuss this in closed session as litigation settlement. There could definitely be a consequence to this action. Mayor Kelly stated that since none of the Council was aware that this was going to be brought up and considered, he would like the Council to have time to do their due diligence. Mr. Paster recapped Resolution #16-248. It was an agreement in principle to resolve the balance of our declaratory judgment action for affordable housing compliance based on a mediation session held with Fair Share Housing Center and Mr. Banish, the special master planner of the court. In an effort to get the best deal available we were advised to take action before the Thanksgiving holiday. He has been told that towns that didn't take that step before Thanksgiving are now not being afforded the same opportunities to settle. While the court said that the gap period has to be satisfied, it made certain exceptions. The fact is the obligation has to be satisfied. Certain towns are now being told they aren't prepared to settle for those numbers anymore. His concern is that if we go back on Resolution #248, we find ourselves in the same boat. That is the potential consequence of taking action to back on #248 from last year. You would still have to take action to approve any settlement officially, it has to be presented to the court, and it still has to be signed off on by FSH Center. As far as immunity, the only body which can provide immunity on this issue is the court. Mr. Paster has requested a full ten years from the date of the order.

Councilman Riquelme expressed concern about rescinding the resolution. He feels the planner should review all the documents.

Councilman Di Paolo agreed that the COAH planner should be able to look at everything without rushing into rescinding it. This is the first he is hearing about

Councilman Manna's concerns. He does not have #248 with him and doubts other councilmembers have it with them. There's a question whether rescinding it would do any harm to the Borough. We should all discuss this. Given the recent legal decision and Supreme Court case on affordable housing, it is looking worse and worse for municipalities. He suggests a meeting with the COAH planner.

Councilman Manna withdrew his initial motion to rescind Resolution #16-248. He made a motion-**Resolution #17-67**-that no action be taken on Resolution #248 or BER-L-6065-15 for sixty days until there is discussion with the planners and Council.

Second: Councilwoman Correa

Roll call vote: Council members Correa, Geist, Manna, Riquelme-yes

Councilman Morrell-no

Councilman Di Paolo-abstained

Motion carried.

ORDINANCES

First Reading

#1513 Ordinance Amending Chapter #306-8 of the Borough of Dumont Code

Motion to waive formal reading: Councilwoman Correa

Second: Councilman Riquelme

All in favor.

Mr. Paster explained that this is an amendment to zoning. It originally prohibited parking on front lawns in multi-family dwellings. That portion was amended in 2010 to encompass all residential and commercial dwellings. This amendment applies to side and rear yards as well.

Motion to pass on first reading: Councilman Morrell

Second: Councilman Manna

Roll call vote: Council members Correa, Di Paolo, Geist, Manna, Morrell-yes

Councilman Riquelme-abstained

#1514 Ordinance Amending Chapter #455, 17E

Mr. Paster explained that this restricts parking on private properties to driveways and driveway is further defined as an improved surface. Both of these ordinances were requested by the Police Department for parking enforcement.

Motion to waive formal reading: Councilman Morrell

Second: Councilman Manna

All in favor.

Motion to pass on first reading: Councilman Morrell

Second: Councilman Manna

Roll call vote: Council members Correa, Di Paolo, Geist, Manna, Morrell, Riquelme-yes

Councilman Riquelme asked if the architect's report is ready-he would like to see the difference between renovation and new construction. The Mayor said it should be ready Friday.

Motion to open to the public: Councilman Morrell

Second: Councilman Manna

All in favor.

1. Assemblywoman Schepisi said she will be providing to every municipality new bills she has drafted to deal with some of the concerns she has heard tonight. She has a set of bills dealing with PILOT agreements, which ties in with the affordable housing. A lot of municipalities have used PILOT agreements for good but there are areas throughout the State where PILOTs have been abused. Therefore, there are cities where over \$2,000,000,000 of their real estate is exempt from paying taxes. As a result, they are also exempt from building any affordable housing, which gets pushed into our communities. Right now every municipality in Bergen County is struggling, having no idea how to address this. The Borough Attorneys, Borough Planners and Mayors are trying to do the best they can with absolutely no guidance. She will be looking for support for these bills.

2. deLyon, 67 Beacon Street, said he believes in transparency. The website has information posted on a former council person. He spoke of an OPRA he had submitted and ascertained that the borough picked up the cost of defending Ms. Zamechansky in a suit as per Chapter 25 in the Code. It was discussed in executive session September 2016 and there was no objection by the Governing Body to pay the legal fees. He questioned the reason for entering closed session to discuss Litigation-Personnel and why the letters were not posted earlier. The Mayor said they were just received and that's when they were posted. Dr. deLyon questioned whether Ms. Zamechansky was asked to recuse herself. The Mayor said no. Dr. deLyon was told the \$7,500 fee was a flat fee. He feels that there should be a breakdown of the fee and the Borough should not pay unless the person is found innocent. He asked the Mayor when he was aware of it. The Mayor replied that it was going on for years. When he became aware of it he made sure it was presented to the Police Department. Because it was a council person, the Police Department presented it to the Prosecutor's office numerous times and she was exonerated. Councilman Morrell said the items are still in the closed borough hall.

3. Lili Binney, 32 Roxbury Road, directing her comments to Assemblywoman Schepisi, said that our residents offered twenty-six single family homes for low and moderate income housing but Landmark and Fair Share Housing would not listen to that. She spoke of credits, per capita income, taxes and dense population of Dumont. She asked when FSH served suit upon us, when did the 252 become 422 and when did the Council know this. Mr. Paster replied that we filed a declaratory judgment action in 2015 consistent with the Supreme Court's directive and they then intervened. He said the numbers changed when the last report came out. Ms. Binney questioned how we would negotiate if we didn't know how they got this number. She is concerned about property values in a town that has urban renewal development attached to it. She spoke to the Joint Land Use Board attorney about this. His answers and her research contradict the Borough Attorney's information. She feels that Landmark is getting special funding to help them with their project and Dumont residents get lower property values.

4. Tom Kelly, 70 Beacon Street, spoke of the Fair Share Housing numbers and gap period. He thinks the FSH numbers will come down. They can no longer count people who have died or are not qualified. The number might come down to the E-Consult number, which is 0. Councilman Geist said he would research it by the next meeting.

5. Rachel Bunin, 9 Poplar Street, directed her comments to the Assemblywoman.

Part of the settlement agreement is that they get to build one building with twenty-two units all in one place. Dumont provides much affordable housing. She feels this is discriminatory. Mr. Bochicchio, at a Joint Land Use Board meeting had asked Landmark to sprinkle the affordable housing within the development.

6. Tom Gorman, 46 Wilcox Street, commented we are no longer a stigma-free community. Who is going to review the plans from Landmark? The Mayor replied the building department would. Mr. Gorman asked who would oversee the project. The Mayor said there will be extra inspectors hired. Mr. Gorman asked the status of borough hall being built in Bergenfield. The Mayor replied that there has been no further discussion with them. Mr. Gorman would like a microphone and a laptop provided for each council member. Mr. Gorman asked Mr. Herr about a meeting. Mr. Herr will talk to him about it.

7. Bill Bochicchio, 94 Hillcrest Drive, asked Mr. Paster why Landmark LLC's name has changed and why we allowed that to happen. Mr. Paster responded that the PILOT agreement, according to statute, requires it to be considered an Urban Renewal Corporation. Mr. Bochicchio stated that Landmark has submitted all their plans and they are being reviewed by the Joint Land Use Board engineer Boswell Engineers and the new planner, CME. Boswell is responsible for the job. They will provide a project manager and ensure the integrity of the items going in there. The plans will be up on the wall. Mr. Paster added that it is paid for by the developer. In answer to Councilman Manna's question, Mr. Bochicchio stated that contamination and remediation documents have been filed. The hearing on the site plan is scheduled for February 28th. They have also applied to the County for approval.

8. Michael Sullivan, 125 Andover Avenue, said that the Mayor and Mr. Paster stated that we have no say as to what materials are used in this project. He referred to the Avalon projects. Mr. Paster replied it is State standard. Assemblywoman Schepisi added that there is legislation addressing the situation but it has not gone through the House.

Motion to close to the public: Councilman Morrell

Second: Councilman Manna

All in favor.

The Municipal Clerk read the Closed Session resolution to discuss:

Personnel-Recreation

Personnel-Administration

Personnel-Police

Potential Litigation-Police

Purchase, Lease, Acquisition of Real Property

DPW Negotiations

Motion to enter: Councilman Manna

Second: Councilman Di Paolo

Roll call vote: Council members Correa, Di Paolo, Geist, Manna, Morrell, Riquelme-yes

Following closed session, motion to go back into public: Councilman Manna

Second: Councilman Morrell

All in favor.

Mr. Paster presented a resolution authorizing the offer of a contract to Herbert & Weiss to represent Chief Faulborn and Chief Conner in the Snell litigation pending formal memorialization on February 21st at an hourly rate of \$140 an hour, not to exceed \$4,200 except upon further authorization of the Council.

Motion: Councilman Morrell

Second: Councilman Manna

Roll call vote: Council members Correa, Di Paolo, Geist, Manna, Morrell, Riquelme-yes

Motion to adjourn: Councilman Manna

Second: Councilman Riquelme

All in favor.

Meeting adjourned at 10:15PM

Minutes respectfully submitted by:

Susan Connelly, RMC
Municipal Clerk