

**Meeting Minutes  
Roosevelt Borough Council  
Regular Meeting  
December 12, 2016**

Adequate notice of this meeting, as required by Chapter 231, P.L. 1975, has been provided by a public notice on January 8, 2016 which was posted on the Bulletin Board at the Roosevelt Post Office and in the Borough Hall. The notice was published in The Times and Asbury Park Press.

Roll Call.

	<b>PRESENT</b>	<b>ABSENT</b>
<i>Councilmember Bonna</i>	✓	
<i>Councilmember Impellizzeri</i>	✓	
<i>Councilmember Lipoti</i>	✓	
<i>Councilmember Malkin</i>	✓	
<i>Councilmember Ticktin</i>	✓	
<i>Councilmember Trammell</i>		✓
<i>Mayor Ellentuck</i>	✓	

Also in attendance: Debra Sopronyi, Borough Clerk; and Richard Shaklee, Borough Attorney.

Mayor Ellentuck called Carol Watchler forward to present a resolution by the New Jersey Legislature honoring Ann Baker.

Mayor Ellentuck read the resolution aloud for the public and thanked Ms. Watchler for bringing the resolution to the Borough. He noted that it will be hung in Borough Hall for all to see.

**Mayors Report**

Mayor Ellentuck noted that the most recent Bulletin and the events of the last several meetings have made it evident that we need a reminder and possibly an explanation of the rules under which the governing body operates. A quick civics lesson if you will.

For the last 18 months or so, I have sat up here during the public portion and listened as members of a group in the audience consistently and repeatedly

1. Questioned my motives and motives of the Council,
2. Accused me of lying, being underhanded and otherwise impugned my reputation and insulted me and the members of the Council.
3. Purported to give fractured lessons on civics and accusations based on bad law and facts.

You know what? That's OK. That is what every elected municipal official should expect and accept. It is what we are sworn to do.

Why is that?

The public portion is created by New Jersey law and is a part of the Open Public Meetings Act or OPMA. It is **NOT** controlled by Roberts Rules of Order.

The public portion is where citizens exercise their 1st Amendment right to free speech and their right to petition their government. They have a near absolute right to speak. I am aware of NO corresponding right or obligation on the part of the Mayor or Council to speak during the public portion. In other words, while we have historically permitted members of the Council to speak directly to the audience or to answer resident's questions during the public portion, and I believe we should continue to do so, there is no specific law or rule of which I am aware that requires or permits that.

Most recently, I and the majority of the Council have been excoriated for failing to stop members of the public from questioning a member of Council during the public portion. However, had any of us done so, we would clearly have violated the law. As to my personal purported wrongful failure to interrupt the public, I remind you that NJ law states that "The mayor shall see to it that the laws of the State and the ordinances of the borough are faithfully executed."

While we can set the time, place and duration of the speech, and can control certain speech and actions, such as repetitive speech and physical intimidation, we cannot apply those rules unevenly based on the content of the speech.

We cannot and should not hinder or interrupt the public, whether or not we agree with it and even if WE believe that speech to be insulting, vindictive, based on false facts or otherwise.

The matter of the public portion was dealt with directly by the New Jersey Supreme Court in a West Windsor case (Besler v. Board of Education of West Windsor-Plainsboro Regional School District). The Supreme Court opined that

The First Amendment gives people the right to express disagreement with government policy, whether on the national, state, or local level. Heightened protection is given to speech in public forums, including the public comment period of a [municipal] meeting. We must do so even when it "include[s] vehement, caustic, and sometimes unpleasantly sharp attacks on government and public officials." (citing New York Times Co. v. Sullivan in part).

On the other hand, I and the majority on the Council have also been accused of bad faith, ulterior motives and lying at the council table by a single councilperson and have been spoken over and interrupted by that same person. That is not ok. While Roberts Rules have nothing to do with the public portion, they most definitely control the council.

While there are many rules in Roberts, I will just point you to Rules 42 and 43 titled "Debate" and "Decorum in Debate", which you might want to read yourselves. Please note that Rule 43 states, in relevant parts, that:

In debate a [council] member must confine himself [or herself] to the question before the assembly, and avoid personalities. . . It is not allowable to arraign the motives of a member, but the nature or consequences of a measure may be condemned in strong terms. It is not the man [or woman], but the measure, that is the subject of debate.

In other words, stick to the issue and don't question people's motives or veracity.

The rules also provide that Councilpersons must wait until the elected official finishes his or her statement before asking to speak. If he or she wants to ask a question of the member speaking . . . the Councilperson should . . . tell the chair that the Councilperson wants to ask a question of the speaking member. The chair must then ask the speaker if he or she is willing to be interrupted, or the speaker may at once consent or decline, addressing, however, the chair, through whom the conversation must be carried on, as members cannot directly address one another in a deliberative assembly.

Basically, we are to sit quietly while a councilperson speaks and they are to sit quietly and listen to the response.

I hope this clarifies the laws and rules under which we operate and that we will do our best to abide by the same.

Mayor Ellentuck opened the public comment period on the consent agenda; there being no comments, the public comment period was closed.

December 12, 2016

## Consent Agenda

Councilmember Malkin requested that resolution 16-112 be pulled from the consent agenda and voted on separately.

Councilmember Ticktin moved resolutions 16-111, 16-113, 16-114, 16-115, 16-116 and the payment of bills as the consent agenda for approval, Councilmember Lipoti seconded.

Council members Bonna, Impellizzeri, Lipoti, Malkin, and Ticktin voted yes.

Consent Agenda adopted 5-0.

Resolution 16-111: Authorize the Receipt of Bids for Removal and Hauling of Liquid Sludge

Resolution 16-113: Requesting Permission to Establish a Dedicated Trust by Rider for Woodland Memorial Fund Donations Pursuant to N.J.S.A. 40A:5-29

Resolution 16-114: Requesting Permission to Establish a Dedicated Trust by Rider for Storm Recovery Fund Pursuant to N.J.S.A. 40A:4-62.1

Resolution 16-115: Awarding Various Contracts for the Purchase of Chemicals for the Borough's Water and Sewer Facilities

Resolution 16-116: Authorizing the Filing of a Recycling Tonnage Grant

Payment of Bills

**Resolution 16-112: Authorizing Transfer of Appropriations for 2016**

Councilmember Lipoti moved resolution 16-112, Councilmember Malkin seconded.

Councilmember Malkin commented that the transfer in resolution 16-112 is for a \$7,500.00 expenditure connected to ordinance 2016-022 and questioned whether it is legal to pass the bond ordinance.

Councilmember Malkin moved to table resolution 16-112 until after ordinance 2016-022 is adopted, Councilmember Ticktin seconded.

Council members Bonna, Impellizzeri, Lipoti, Malkin, and Ticktin voted yes.

Resolution tabled 5-0.

**2016-022 FIRST READING AND INTRODUCTION – BOND ORDINANCE PROVIDING FOR VARIOUS WATER-SEWER IMPROVEMENTS, APPROPRIATING \$150,000 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$142,500 BONDS AND NOTES TO FINANCE A PORTION OF THE COSTS THEREOF, AUTHORIZED IN AND BY THE BOROUGH OF ROOSEVELT, IN THE COUNTY OF MONMOUTH, NEW JERSEY**

Councilmember Lipoti moved ordinance 2015=6-022 for introduction; Councilmember Bonna seconded.

Councilmember Malkin inquired as to how the \$150,000.00 in work by R3M was done when the Council only authorized \$35,000.00. Mayor Ellentuck reviewed the resolutions which have authorized a total of \$55,000.00 for R3M Engineering over the course of 2016; and noted that it is contemplated that NJEIT will reimburse the Borough for the expenses associated with the study to determine the work needed at the utility plants.

Councilmember Malkin noted that there is no guarantee that the funds will be received. Mayor Ellentuck noted, that based on their meeting with NJEIT, Bond Counsel is convinced this is the way to fund this project. There was discussion regarding NJEIT and the availability of USDA loans.

Council members Bonna, Impellizzeri, Lipoti, and Ticktin voted yes; Councilmember Malkin abstained.

Ordinance introduced 4-0, with one abstention.

**Resolution 16-112:      **Authorizing Transfer of Appropriations for 2016****

Councilmember Lipoti moved resolution 16-112, Councilmember Ticktin seconded.

Council members Bonna, Impellizzeri, Lipoti, and Ticktin voted yes; Councilmember Malkin abstained.

Resolution adopted 4-0, with one abstention.

**Reports/Meetings of Council Committees:**

Councilmember Impellizzeri: noted that the tree on Eleanor Lane has been cut up; the Mack firetruck sold for \$2,385.00; the County Shade Tree Commission inspected trees and will be returning to trim them.

Councilmember Ticktin: requested that Health and Safety be given to Councilmember Trammell; noted that the Monmouth County Board of Health will be visiting the towns they cover.

Councilmember Ticktin moved that Councilmember Trammell take over Health and Safety; Councilmember Lipoti seconded.

Council members Bonna, Impellizzeri, Lipoti, Malkin, and Ticktin voted yes.

Motion approved 5-0.

Mayor Ellentuck commented that he had a meeting with the firefighters and they have agreed to return to the Fire Department; there will be at least 14 firefighters. There was discussion regarding the Borough acquiring a list of all the firefighters and first aid volunteers and the meeting with the firefighters.

Councilmember Bonna: advised that the staff is running a food drive December 12<sup>th</sup> through the 22<sup>nd</sup>; the Senior meeting went well with a comedian for entertainment; Debbie Thomas is setting up speakers for future meetings; the Environmental Commissions have set their forest management goals; there will be no Environmental Commission meeting in December; the Mayor will be appointing a new member to the Environmental Commission this evening; the Environmental Commission has dedicated a space on the public bulletin board by the post office to post information on their various programs.

Councilmember Malkin: advised that the Planning memorialized their actions of November 1<sup>st</sup> in which they declined to add the Borough Hall property as a redevelopment zone; Mr. Thomas, the Planner, advised that it is time to perform a Master Plan review and the Planning Board authorized him to proceed with the review.

Councilmember Malkin commented that at the last meeting a motion was made to renew the shared services for Municipal Clerk for one month, but the Clerk was not told. Mayor Ellentuck noted that this matter will be discussed under old business.

Councilmember Lipoti: advised that the roof at the water plant was leaking due to the large amount of leaves in the drains, and reviewed the actions taken to remedy the situation noting that a new roof is needed and should have a pitch for drainage; there is a leak in the flange on well #4 and on the backwash pipe that needs to be addressed.

Councilmember Lipoti noted that the USDA loan civil rights requirements and a limited English proficiency report needs to be done, webinars are available on-line to assist with the development of the report; the storage of de-icing material storage was discussed with DEP and the material should be stored on an asphalt pad enclosed on three sides and covered with a tarp, and KTK has submitted a proposal for \$6,000.00 to do the work. She noted that this is a requirements for the Borough to obtain its stormwater permit.

There was discussion regarding acquiring additional quotes for this project and it was agreed that additional quotes would be acquired prior to any work being performed.

Councilmember Lipoti continued that she attended a webinar on Monarch butterflies and milkweed planting.

There was discussion regarding the responsibility of Public Works to clean the drains of the Borough buildings and that neglect was the cause of the roof leak at the water plant.

## **OLD BUSINESS**

### **Shared Services Agreement with Hightstown Borough for Municipal Clerk Services**

Mayor Ellentuck noted that the shared services agreement for Municipal Clerk services expires on December 31, 2016 and the Administration Committee held a meeting with the Clerk and it was agreed not to renew the agreement. He commented that the vote at the last meeting was misunderstood by some Councilmembers. He asked for a motion to rescind the vote at the last meeting in which the agreement would be renewed for one month.

Councilmember Ticktin moved to rescind the vote at the last meeting regarding the one month renewal of the Municipal Clerk shared services agreement; Councilmember Bonna seconded.

There was discussion regarding the vote at the last meeting; whether the Clerk had been told about the vote during their meeting; the extension of the agreement was to be for a transitional period; disregard of Council's vote; and the confusion of Council with the original vote.

Council members Bonna, Impellizzeri, and Lipoti voted yes; Councilmembers Malkin and Ticktin voted no.

Motion approved 3-2.

## **NEW BUSINESS**

### **Use of Borough Hall**

Mayor Ellentuck called for a motion to approve the requests received for the use of Borough Hall.

Councilmember Ticktin moved to approve the two requests for the use of Borough Hall; Councilmember Malkin seconded.

Council members Bonna, Impellizzeri, Lipoti, Malkin and Ticktin voted yes.

Use of Borough Hall approved 5-0.

### **Appointment to unexpired term ending 12/31/18 on the Environmental Commission**

Mayor Ellentuck appointed Nicholas Murray to the Environmental Commission for the unexpired term ending 12/31/18.

### **NJDOT Municipal Aid Grant FY17**

Mayor Ellentuck reviewed the Engineer's recommendation letter for applying for the grant: Improvements to Homestead Lane and Cedar Court or improvements to Nurko Road (Phase II). There was discussion regarding the condition of the roads recommended for repair and Council agreed that the Engineer should apply for improvements to Homestead Lane and Cedar Court and authorized the \$2,500.00 Engineering fee required for the application.

### Cemetery

Mayor Ellentuck advised that the Cemetery Manager has inquired about a family with a relative that is buried in the cemetery and they are having a child cremated and would like to add the ashes to the existing grave. There was discussion regarding the ordinance containing no provision for this and that it has been done before. Mayor Ellentuck inquired if there were any objections to this burial to which the Council responded that they did not.

Mayor Ellentuck opened the public comment period and the following individuals spoke:

Nona Sherak – commented that she is concerned with the way tax sales are held and the process to pay liens. She asked the finance committee to investigate if this is the way it is done everywhere or just in Roosevelt; DPW is not trimming nor road work, and it is needed.

Councilmember Lipoti responded that the DPW budget is not that large. Mayor Ellentuck noted that DPW only has one employee who holds several titles; we are presently working with Allentown regarding the hiring of a shared DPW employee.

Nona Sherak – commented that she has been ridiculed when attending meetings in the past and it is not nice to watch at the current meetings.

Curt Muser – inquired as to an ordinance for on-street parking.

Mayor Ellentuck responded that there is an ordinance, and he reviewed the ordinance for Mr. Muser.

Mr. Muser commented that it is difficult to get through Pine Drive with the way people are currently parking.

Mayor Ellentuck noted that Pine Drive is not included in the non-parking ordinance, but point taken. There was discussion regarding the parking on Pine Drive.

Mr. Muser then inquired as to whether the Borough is ever going to allow payments on line for water and sewer.

Mayor Ellentuck noted that it has already been approved and the Borough is in the process of having on line payments available next year.

Mr. Muser noted that in 2010 he had his water heater replaced and the valve for water shut off did not work; he was told that the Borough would replace it when they had a back hoe available, but to date it still has not been replaced.

Mayor Ellentuck responded that the work will be coordinated with the water/sewer staff.

Melissa Branco – noted that there was a petition regarding speed bumps on Homestead Lane, if paving is to be done she asked that the installation of the speed bumps be reconsidered; she noted that the First Aid provided a list of the First Aid membership in the past; commented that she is relieved that the four bay building will only cost taxpayers \$10.00 per month.

Maureen Parrott – asked for clarification of the resolutions that have been adopted for R3M.

Mayor Ellentuck commented that resolution 16-20 authorized \$25,000, resolution 16-60 authorized \$20,000, and resolution 16-86 authorized \$10,000 for a total of \$55,000.

There was discussion and Ms. Parrott commented that she put in an OPRA request for the \$55,000 invoice from R3M, but the work has not yet been authorized.

Nona Sherak – commented that the speed bump on Pine Drive is deteriorated and people are parking in the wrong direction causing a hazard; they should be ticketed.

Mayor Ellentuck advised that she should call the State Police and report it so they can be ticketed.

There being no further comments, the public comment period was closed.

Councilmember Tickin moved to adjourn at 8:35pm, Councilmember Bonna seconded. All ayes.

Respectfully Submitted,

Debra L. Sopronyi, RMC  
Borough Clerk