

## REGULAR MEETING MINUTES

Oceanport, New Jersey  
June 4, 2009

The Regular Meeting of the Oceanport Mayor and Council was called to order on June 4, 2009 at 7:33 P.M. with Mayor Mahon stating the meeting had been properly advertised in accordance with the law.

**MEMBERS PRESENT:** Councilpersons Briscione, Gallo, Ibex, Johnson, Irace, Kahle and Mayor Mahon

**OFFICIALS PRESENT:** Borough Clerk, Kimberly A. Jungfer and Borough Attorney, John O. Bennett, III

**PLEDGE OF ALLEGIANCE:** Mayor Mahon led the audience and members of the Council in the flag salute.

### CONSENT AGENDA

1. Resolution authorizing the payment of bills. **R-09-79**
2. Resolution authorizing renewal of Oceanport Spirits Liquor license **R-09-80**
3. Resolution authorizing renew of the Arthur Alvina Liquor license **R-09-81**
4. Resolution appointing Tax Collector. **R-09-89**
5. Resolution authorizing the Borough Engineer to receive bids for various capital projects. **R-09-82**
6. Resolution authorizing the Borough Engineer to receive bids for waste collection. **R-09-83**
7. Resolution appointing temporary help in the Public Works department. **R-09-84**
8. Resolution waiving permit fees for replacement of hot water heater at PW building. **R-09-85**
9. Resolution approving field usage. **R-09-86**
10. Resolution supporting HR 1003. **R-09-87**
11. Approval of the Workshop minutes of May 21, 2009.
12. Approval of the Regular minutes of May 21, 2009.
13. Approval of the Fire Fighter application of Christopher Remedios.
14. Resolution Amending the 2009 Capital Budget **R-09-88**

The Clerk stated there were 12 items listed on the Consent Agenda and described two additional items to be added and asked for a motion. Councilwoman Kahle asked that Item 4 be removed.

Councilman Ibex made a motion to approve the remaining items on the Consent Agenda, which was seconded by Councilman Johnson and approved by the Council.

The Clerk asked for a motion on Item #4. Councilman Irace moved to approve Item #4, which was seconded by Councilman Ibex and approved by Council with the exception of Councilwoman Kahle who voted no.

Councilman Ibex commented that he was very pleased with the professional, competent and efficient manner by which the Borough's Business Administrator, Ms. Jungfer, handled the process in searching for a Tax Collector and that it was Ms. Jungfer's initiative to handle the process in such a fine fashion.

Mayor Mahon added that he felt the same on the Public Works appointment as well.

### COMMITTEES:

**COUNCILMAN BRISCIONE:** No report

**COUNCILMAN GALLO:** Councilman Gallo thanked everyone that participated in the Borough's Memorial Day Parade especially keynote speaker Master Sergeant Cantrece Williams and Grand Marshall Al DeSantis and the Shore Regional Band.

Councilman Gallo reported that there was fence work ongoing at the Community Center for the new fence on the dugouts and weather permitting the games could continue on Saturday.

**COUNCILMAN IBEX:** No report

**COUNCILMAN JOHNSON:** Councilman Johnson called for the introduction of **AN ORDINANCE OF THE BOROUGH OF OCEANPORT, IN THE COUNTY OF MONMOUTH, NEW JERSEY, PROVIDING FOR THE CONSTRUCTION, REPAIR, REHABILITATION, MAINTENANCE AND RECONSTRUCTION OF STORMWATER BASINS AT MONMOUTH PARK RACE TRACK IN THE BOROUGH OF OCEANPORT AND APPROPRIATING \$25,000,000 THEREFORE, AND PROVIDING FOR THE ISSUANCE OF \$25,000,000 IN BONDS OR NOTES OF THE BOROUGH OF OCEANPORT TO FINANCE THE SAME, AND DIRECTING THE SPECIAL ASSESSMENT OF THE COST THEREOF** and then asked the Clerk to read the proposed Ordinance by title only, after which Councilman Johnson moved to approve the Ordinance upon first reading and to hold the public hearing on the proposed ordinance at the Council meeting of July 16, 2009 and to advertise same in accordance with the law and was seconded by Councilwoman Kahle.

The Clerk called roll:

AYES: Briscione, Gallo, Ibex, Johnson, Irace, Kahle  
NAYES: None  
ABSTAIN: None  
ABSENT: None

**COUNCILMAN IRACE:** Councilman Irace made a motion to adopt the 2009 Oceanport Municipal Budget as advertised which was seconded by Councilman Ibex.

The Clerk called roll:

Councilman Briscione thanked the Finance Committee for their work on the budget and commented that he had issues with tax rate increases especially in the current economic conditions and the cost of the payback for the pension deferrals and the effects of possible school consolidation would have on outstanding school deferral money. Councilman Briscione stated that the municipal budget is 24% of the total rate and there was a cost for performing the services that the Borough provides and that he doesn't see any alternative when faced with the unfunded mandates and inequality in the way the State treats towns like Oceanport. He continued that without a fundamental change in the way local government operates, they would continue to be faced with those issues on a yearly basis and voted yes.

Councilman Gallo voted yes.

Councilman Ibex stated he agreed with Councilman Briscione and that he thought that as much as the Finance Committee has put the budget before them and that they may not like all of the aspects of it but are not given much choice and he believes that small towns such as Oceanport which run efficient, lean, mean and green are the ones that are penalized in the waste of larger communities and that there needs to be a different way to treat towns like Oceanport that are lean and mean and do a good job and voted yes.

Councilman Johnson agreed with Councilman Briscione and Ibex and voted yes.

Councilman Irace stated he echoed their comments and that the cuts in State aid have made for difficult years and with that they've only increased the rate 1.9 cents and voted yes.

Councilwoman Kahle commented that she was not a fan of school deferment and \$350,000 was a lot of money and not only that but the pension payback, she was not happy with the interest rate they would have to subject the taxpayers to pay back and voted no.

The Clerk stated that the motion carries.

**COUNCILWOMAN KAHLE:** Councilwoman Kahle reported that she attended an opening at the Oceanport Seniors Center of the Golden Garden presented by the Brownie Troop 718 and that and gave the details.

Councilwoman Kahle stated she attended a community forum on school consolidation at Shore Regional High School along with Councilman Gallo where they were given an update on the process of regionalizing the schools with those of West Long Branch, Sea Bright, Monmouth Beach, Interlaken and

Deal. Councilwoman Kahle stated that this issue was a high priority for the State as there were 670 educational entities statewide and 31 K-8 districts in Monmouth County alone. Councilwoman Kahle stated that there was an in-depth study being conducted on reasons for regionalization and reasons against regionalization and explained the process for the review of the study's findings. Councilwoman Kahle also reported that a vote would be taken at the end and that if any town voted no that the whole process would not go forward. Councilwoman Kahle gave additional details on alternatives to regionalization that would be sought including shared services such as busing and administration and that there remained a number of unanswered questions such as salary guides, busing, and choice of neighborhood schools. She did find it encouraging that the Superintendent made the comment that she would be sure that the educational process and integrity were not sacrificed for money. Councilwoman Kahle concluded by stating that the reports were due in sometime in March 2010.

**MAYOR MAHON:** Mayor Mahon reported on FMERPA and the Historical Advisory Subcommittee that he chairs and one of the things being worked on was an agreement document between the United States Army and the New Jersey State Historic Preservation Office for the Closure and Disposal of Fort Monmouth which he would be sharing with the Planning Board as well as the Council and Clerk/Administrator with requests for recommendations for staffing of the Borough's Historical Committee which had been established by Ordinance as he would need to make appointments to the Committee in the near future.

Councilwoman Kahle commented that when they had considered the Committee a couple of years ago they had received a few resumes from interested residents. Mayor Mahon confirmed that there were 2 names and asked Ms. Jungfer to provide the Council with that information

Mayor Mahon then opened the meeting for anyone from the public who wished to be heard.

**PUBLIC:**

Charlie Boland, 42 Elizabeth Drive, asked the Council for a status on the ongoing issue involving 39 Elizabeth Drive.

Mr. Bennett responded that pursuant to the direction of the Mayor and Council, there was a meeting with the Zoning Code Enforcement Officer along with the owners of the house in question and that the significant issues that had been raised were about the care managers and their actions at the house. The owners of the house have their daughter living there currently with one other person and there was 24 hour care managers there that were licensed by the State of New Jersey that have had background checks done, however, there had not been "rules and regulations" that were set up and that the parents / owners have agreed to establish rules and regulations including that the location would not be used for anything other than as a residence and that the meetings that were occurring there were contrary to what the father had ever wanted and were conducted without his permission and that the location would not be used as an Allied facility and that the property was in the name of a corporation so that the parents who own the corporation would have a home for their daughter to live for the rest of her life. Mr. Bennett stated that the agreement would also state that there would not be any care managers smoking at the front of the house but behind the house and that the mother has been doing spot checks. Mr. Bennett stated that there would be a formal agreement that would be entered into setting forth the rules and regulations for anyone that is in the house which would be unusual as they don't do that for other people that have residents in their house but this was being done in an effort to make the situation better for everyone including the parents of the daughter that lives there.

Mr. Boland expressed concerns about the property values being affected in the neighborhood and how the property was designated for use – single family, group home, etc and what happens when the young women residing there passes away.

Mr. Bennett answered that this was discussed and asked Ms. Jungfer for her input. Ms. Jungfer explained that it would be a single family home and that the parents were very clear that this was their daughter's home and they were just as upset at the things that were going on and they were moving swiftly to correct those matters.

There was additional discussion regarding ownership, whether or not the State was involved and whether or not, how the property values would or would not be affected and if there would be anything placed in writing to assure the surrounding residents that the matter was being addressed and would continue use as a single family residence.

Mr. Bennett also commented that there have been numerous studies that a group home in the area has shown no negative impact on real estate values and this home was not a group home.

Mr. Boland stated that they would like evidence that the house would remain as a single family home and that it would be locked in and could not change.

Mayor Mahon also commented for clarification that they don't want to the wrong impression given and that since January 2008 there had been nothing presented or misrepresented by the owners of that residence before the Council and stated that they had not been "hoodwinked" about anything as they weren't aware of it as it was not a matter presented before Council except for the investigation that has proceeded over the last month. The Council had only been aware of it as a reaction to the residents that brought it to their attention and as for the Planning Board, they reviewed an application for a variance for a deck.

Mr. Boland stated that they received a letter for a ramp, it was a nice thing because the guy bought the house for the daughter and the next thing they knew they're hearing finance problems with real estate in the neighborhood and then the obvious things that the Governing Body addressed but the bottom line was that they couldn't afford to give away...and also he understood that the Borough was collecting Mt. Laurel points for the location. He wants to be sure that when she passes on that it would go away and they would like reassurance that it wouldn't continue as it would be devastating to their neighborhoods as they think they have one of the nicest neighborhoods in town.

Mayor Mahon stated that to the extent that they have the right to impose conditions on them and their ownership of the home, they are going to do it.

There was additional discussion reiterating the ownership of the property and who it would pass to afterwards and what had been represented. Mr. Bennett also stated that they do not have the power to state who can purchase what unless it's a change in use. Mr. Boland asked again for something in writing for reassurance and that they would be back in two weeks for an update. Mr. Bennett stated that their lawyer would be preparing an agreement.

Councilman Briscione commented to clarify the property rights issue – because it was a single family home and its owned in partnership that it has the same rights as any other single family home and that the Borough can not impose anything on those unless the Borough were to change the zoning and they can't spot zone houses and that they aren't getting any other treatment that anybody else would get which was called the Bundle of Rights in real estate – one has the right to do certain things with their home and they enjoy those rights the way everyone else enjoys those rights.

Mark Hendrickson, 40 Elizabeth Drive, stated that he lives directly across the street from the group home that was not a group home, however, all the people that came to apply for jobs there asked him where the group home was and also asked Mrs. Brodie where the group home was. Mr. Hendrickson expressed similar concerns as Mr. Boland and that he was upset with how the town was handling the situation between the Enforcement Officer and the Council and explained why.

Mayor Mahon responded that he was unsure how to answer his questions but that since April 1<sup>st</sup>, they have been doing their diligence to learn about the situation because contrary to what the perception was, they had not known about it until the article.

Mr. Hendrickson asked why the town didn't address it at that time say instead of using this as an opportunity to obtain Mount Laurel credits why not tell the neighbors about the property and bring the owner in before the Planning Board to tell them what was really going on under oath.

Mayor Mahon answered that his was a good question but the article had indicated that the neighbors were in support of it which Mr. Hendrickson interjected was a false statement as no one had

asked the neighbors and deferred to others present in the room.

Mayor Mahon continued that he couldn't dispute him on that but explained how the Council addresses a complaint and why the answer(s) aren't always made quickly and stated again what progress the Council had made thus far to address the issue.

There was additional discussion about why the property was not a group home and that as it was the Council had some area to work on it whereas if it was State run the Council would have no jurisdiction, and why the process was taking so long.

Mr. Bennett asked Mr. Hendrickson for any outstanding questions that he had other than the cars going in and out that have State license plates which shouldn't be.

Mr. Hendrickson stated that all of the workers have State – that they are all “NF” plates.

Mr. Bennett responded that those are No Fee plates *not* State – State would have SG and that they are working for a not for profit provider. Mr. Bennett asked about who pays the landscaper. Mr. Hendrickson asked someone in the audience didn't the landscaper tell her he was paid by the State but the audience member was unsure as they were going by the No Fee plate.

Mr. Bennett asked again for the outstanding questions.

Mr. Hendrickson responded – why the house wasn't reassessed, what was the agreement with the State and the persons running the place.

Mr. Bennett gave some information regarding the agency and how the State works and why the parents set up the property the way they did and still receive State funding for the daughter's care.

There was further discussion with Mr. Boland regarding the impacts on refinancing and reassessments and what the 30 year restriction with COAH entails

Frank Suhan, 28 Elizabeth Drive, asked if it was just the daughter's home but someone said earlier that there were 2 people living there.

Mr. Bennett answered that was true and the daughter has a roommate. There was additional discussion about the number of people coming in and out of the home as well as why one could not regulate that anymore than one would regulate a man and woman not married living in a home together and other scenarios.

After lengthy discussions Mayor Mahon asked if those present for the matter on Elizabeth Drive were satisfied with the Council's responses to their questions.

Christine Brody, 35 Elizabeth Drive, asked for clarification on the statement that there were 2 care workers per shift per resident.

Mr. Bennett responded no and that he could only tell what was represented to him which was that there are two healthcare providers per shift at the home.

Ms. Brody asked who gave that information.

Ms. Jungfer answered that the parents advised the Borough that there was one healthcare provider per resident per shift.

Ms. Brody asked if there would be something in writing to ascertain that that was factual.

Mr. Bennett answered that the only verification they could obtain would be from the parents and/or by counting cars.

Ms. Brody stated per shift there was a lot more than that going on and stated that she knew as the driveway where they pull in and out of was directly next to her bedroom during the 11-7 shift and it appeared that there were more care workers or supplemental personnel at the time of the shift and gave examples of the different times that it was occurring and that it might be good to follow up on the information that they've been told to be sure it is factual and that more than one resource should be used besides the owner.

Mr. Bennett commented that follow up would probably have to come from neighbors.

Ms. Brody asked if all the workers were from the same agency. Mr. Bennett answered yes, that was what was represented.

Ms. Brody stated to the Council that if they could determine some additional ways to get confirmation that what Mr. and Mrs. Riza's conveyed to the Borough that would assure her if Mayor Mahon called her or Councilman Irace called her and stated that they double checked and this is the information.

There was additional discussion between Mr. Bennett and Ms. Brody about the number of cars and how many vehicles should be there at any given time and that one of the items being added into the agreement would be that employees are not to have visitors.

Councilman Irace asked Mr. Bennett if there were background checks done which Mr. Bennett answered yes, the company was required to perform them on every employee.

Bobby Turner, 43 Elizabeth Drive, asked why it came up with the appraiser

Mr. Bennett answered there was no way that they would know that.

Ms. Jungfer stated she would check the property card.

Mr. Hendrickson explained what happened with the appraiser as he had spoken with him and told him that the site was not a group home. Mr. Hendrickson made additional comments regarding the tranquility of the neighborhood and the impact of activities occurring at the house. Mr. Hendrickson also commented that if they had known what they knew now, they would have been at the Planning Board meeting with their objections. Mr. Hendrickson questioned if the testimony given to the Planning Board was true and that he had obtained all the paperwork from the minutes of the Planning Board except for the last 3 meetings minutes which had not been posted to the website.

Mr. Bennett stated what he would like to have accomplished and listed the items that they would work on addressing.

Mayor Mahon added additional comments regarding the Planning Board minutes including when they become available and where to obtain them when they haven't yet been posted to the website and it was explained that this particular matter was done in Executive Session and would not have been in the regular minutes.

Rob Donohoe, 20 Elizabeth Drive, commented that he had spoken with a neighbor who had told him that there had been a few cars broken into on his street and asked if there was something in place to notify local neighbors.

Mayor Mahon commented that it was a good question and that he didn't know that there was and that a car had been broken into 3 doors away from his house and he found out about it 4 days later but if they can improve it they will speak to Public Safety about that.

Councilwoman Kahle asked if there could be a notice placed on the website.

Mayor Mahon responded that he would leave that up to the Committee as they have a variety of ways to get information out. Councilman Ibex added that the Committee had made note of it and would follow up.

Gary LaBruno, Wyandotte Avenue, thanked everyone for their work on the budget, commented that although he and the Council don't always agree on everything he had to say to Councilwoman Kahle he was glad that she voted no on the budget based on the school deferral. Mr. LaBruno also asked about the Builder's Remedy suit and if it was close to a settlement.

Mr. Bennett answered yes, there was a settlement agreement being reviewed by the Courts.

Mr. LaBruno asked if it went through then there should be no emergency appropriation with regard to anything like there was for last year. Mr. Bennett answered for the legal expenses – no.

Mr. LaBruno asked Councilman Irace that if there was no emergency expenditure for legal fees in that item, would that bring them closer to being able to pay the deferment on the pensions next year or within the next 2 years.

Councilman Irace answered they hoped so and that they hope to pay it back within the next 12-24 months through a couple of things they were working on.

Mayor Mahon added that the additional appropriation that they were required to make was not only for the builder's remedy but also COAH and its requirements for compliance.

Chief Sutton wanted to mention that there had been car burglaries as well as one house burglary that week and that both incidents were with unsecured and unlocked vehicles or buildings and wanted to remind everyone that although this Oceanport, there was crime occasionally and to keep cars and homes locked.

As no one else from the public wished to be heard Mayor Mahon closed the public portion of the meeting.

**Bill List:** Capital Trust \$10,000.50 Dog Registry \$54.00 Escrow Trust \$2,460.00. Open Space Trust \$8,609.97. Recreation Trust \$150.00. Water Watch Trust \$162.00. 2008 Vouchers Paid \$165,286.63. 2008 Vouchers Paid this Meeting \$0.00. Total 2008 Vouchers Paid \$165,286.63 2009 Vouchers Paid \$8,823,555.20. 2009 Vouchers Paid this Meeting \$290,534.03. Total 2009 Vouchers Paid \$9,114,089.23.

At 9:05 p.m. the Clerk read a Resolution authorizing the meeting to enter Executive Session on a motion made by Councilman Ibex and seconded by Councilwoman Kahle and approved by Council.

At 9:49 p.m. the Council returned from Executive Session and re-opened the Regular Meeting on a motion by Councilman Irace and seconded by Councilwoman Kahle and approved by Council.

As there was no further business, the meeting was adjourned at 9:50 p.m. on a motion by Councilman Ibex, which was seconded by Councilwoman Kahle and approved by Council.

Respectfully submitted,

KIMBERLY A JUNGFER  
BOROUGH CLERK