

**MINUTES OF THE MEETING OF THE
MAYOR AND COUNCIL
OF THE BOROUGH OF SUSSEX
HELD AT THE SUSSEX MUNICIPAL BUILDING
2 MAIN STREET, SUSSEX, NJ
January 17, 2012**

Mayor Rose called the meeting to order and requested the clerk to call the roll. Upon roll call, the following members of the Governing Body were present: Mr. Dykstra, Mr. Fransen, Mrs. Krynicki, Mr. LaBar, Mr. Meyer, and Mayor Rose.

Absent: Mr. Lagattuta

Also present Borough Attorney John Ursin Esq. of Courter, Kobert & Cohen, P.C

Mayor Rose led the assembly in the flag salute and requested a moment of silence.

Mayor Rose stated "This meeting is being held in compliance with the provisions of the Open Public Meetings Act, N.J.S.A. 10:4-6 et seq. It has been properly advertised and certified by the Clerk."

PRESENTATIONS:

Auction of Municipal Owned Property – Block 504, Lot 7

Mr. John Ursin explained that in preparation for this auction of an undersized Municipal lot a file was discovered containing a Planning Board Resolution approving a subdivision and allowing a dwelling to be constructed on this property. Mr. Ursin offered two options the Council has this evening. The first is to take no action and allow the sale of said property, which would then be merged with the adjoining lot of the highest bidder. Second is to cancel the auction and consider an ordinance to sell the property as a buildable lot to the highest bidder.

Mr. Meyer made a motion to adopt a resolution canceling the auction to sell Block 504 Lot 7 as established in Ordinance 2011-17. Seconded by Mr. Fransen

All were in favor.

Water/Sewer Engineers Report – Mr. James Coe of Hatch Mott McDonald and Mr. Mike Furrey of Agra Environmental & Laboratory Services introduced themselves to the Mayor and Council.

Mr. Zschack stated that a meeting was held on January 12, 2012; in attendance were representatives from NJDEP, United Water, WhiteWater, Hatch Mott MacDonald, the past operator of the water plant Mr. Dave Kirkham, Mayor Rose, Councilman Meyer, and Councilman LaBar. The main topics of discussion were the violations of the past six months, possible past unreported violations, and immediate plans to remedy these situations. A site visit to the Water Treatment Plant and Colesville Reservoir was also conducted.

Mr. Coe stated that one of the main focuses of NJDEP was the former operator and some of the irregularities of past data. Mr. Dave Kirkham was asked to provide a written report to NJDEP explaining why he feels there were no past violations. The focus of NJDEP's investigation appears to be directed toward the former operator as well as United Water.

Mr. Coe stated that improvements to the plant such as the decant system, filter medium, and chemical pump systems were also discussed. A report by February 1, 2012 was promised by United Water to list all the improvements that are needed to the entire plant.

Mr. Furrey stated due to the fact that the decant system is not operating properly new operational procedures were put into place. Quotes to repair the three systems that need immediate repair are now being compiled. Mr. Furrey agrees that three items that Mr. Coe mentioned are the most important issues to keep the plant compliant.

Mayor Rose stated that plant has had resent compliant issues the last one for turbidity is related to the decant system. NJDEP has told the Borough if there is one more turbidity exceedance they will issue a boil water alert, Mr. Furrey agreed.

Mayor Rose asked will the repair of these three systems correct the problems with turbidity and the TTHM violations. Both Mr. Coe and Mr. Furrey agreed that these repairs will correct the turbidity issues but more testing will need to determine the cause of the TTHM violations.

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Mayor Rose stated because of the nature of the situation and the concerns of NJDEP these repairs, in the opinion of the engineers should be considered an emergency. Mr. Coe agreed with this statement.

Mr. Dykstra asked is United Water proposing to make these repairs.

Mayor Rose stated that United Water, AGRA, WhiteWater, and the Borough engineer are working together to formulate a list of needed repairs.

Mr. Furrey stated that the work will be performed by independent contractors not United Water.

Mr. Dykstra asked why we are still dealing with United Water.

Mr. Zschack explained that the transfer of operations has not been completed between United Water and WhiteWater.

Mr. Dykstra asked if United Water was negligent does the Borough have any recourse or should this be discussed in closed session.

Mr. Ursin stated that if the Council wants to discuss the rites or potential claims, these issues should be discussed in closed session.

Discussion continued among the Mayor and Council about a host of issues concerning improvements to the plant.

Mr. Meyer requested an executive session to discuss the contract with United Water.

Mr. LaBar stated that the water leaking into the decant room should be repaired immediately due to the fact it is leaking near the electrical panels. This is an older problem and should have been repaired a long time ago. Mr. Furrey stated that United Water has fixed a few problems but there are many smaller problems that need to be examined.

Mayor Rose stated that everyone is in agreement that the three most important issues have been identified and a list of all other problems has been promised by February 1st.

Discussion ensued about the procedure to replace or clean the filter medium.

Mr. Dykstra stated that for years water has spilled out of the decant system onto the adjoining parking lot.

CONSENT AGENDA

Mayor Rose requested that all persons present review the consent agenda and offer any comments they may have at this time regarding the consent agenda.

CORRESPONDENCE (ACCEPTANCE FOR FILING ONLY OF THE FOLLOWING):

1. Thank you note from Linda Arther of 12 Center Street.
2. Township of Reading resolution regarding Senate Bill #S1954 (Forest Harvest on State Lands).
3. Letter dated December 30, 2011 from SCMUA regarding the actual annual charge – FY-2011 and quarterly charge estimates for FY-2012.

REPORTS (ACCEPTANCE FOR FILING OF THE FOLLOWING):

1. Tax Collector's Report for the month of December 2011.
2. Municipal Clerk's Report for the month of December 2011.
3. Water Sewer Collector's Report for the month of December 2011.
4. Zoning Officer's report for the month of December 2011.
5. Property Maintenance report for the month of December 2011.
6. Construction Department report for the month of December 2011.
7. Sussex Fire Department and EMS report for the month of December 2011.
8. Property Maintenance yearly report for Resales.
9. Property Maintenance yearly report for Rental Inspections.
10. Zoning Department yearly report.

APPLICATIONS (APPROVAL OF THE FOLLOWING):

1. NJ State Fireman's Association Membership Application from Michael D. Babich for the Sussex Fire Department.
2. Sussex Fire Department Junior Membership Application from William H. Brenzel.
3. Blue Light Application permit from Michael D. Babich.

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RESOLUTIONS: (APPROVAL OF THE FOLLOWING):

1. Payment of bills for the meeting of January 17, 2012.

Mr. LaBar made a motion to accept the consent agenda of January 17, 2012 with the removal of check number 9960 from the bill list. Seconded by Mr. Dykstra

Upon roll call vote:

Ayes: Dykstra, Fransen, Krynicky, LaBar, Meyer,

Nays: None Absent: Lagatutta Abstentions: None

OPEN PUBLIC SESSION #1

Mr. Meyer made a motion to open the meeting to the public for any questions or comments concerning items on the agenda for which no public discussion is provided. All comments should be directed to the Mayor and are limited to 5 minutes. Seconded by Mr. LaBar All were in favor.

Mrs. Linda Masson 15 Spruce Avenue stated that we have received six notices regarding the water not meeting the drinking water standards since June and one boil water advisory.

Mrs. Masson asked are we under a boil water advisory at this time.

Mayor Rose stated that we are not.

Mrs. Masson stated that she asked before if the Borough can withhold payments to United Water and has not received an answer.

Mrs. Masson asked who from the Borough is overseeing everybody involved in the water system on a day to day basis.

Mayor Rose stated that Mr. Zschack and John Ruschke, the water and sewer engineer, oversee the activities.

Mrs. Masson asked when the sewer lines will be videoed.

Mayor Rose stated we will have to check on the engineers schedule and get back to you.

Mrs. Masson asked if there is an operations guide or manual and why have these violations occurred over the past six months and not before.

Mayor Rose stated that there is the possibility that they have occurred before and reported the NJDEP is investigating this.

Mrs. Masson stated that she received a \$900.00 water/sewer bill this quarter for water she can not drink. Mrs. Masson stated that she notices that Council is drinking bottled water on the dais.

There being no one else present who wished to address the Governing Body, Mr. Dykstra made a motion to close the meeting to the public, seconded by Mr. LaBar All were in favor.

ADMINISTRATORS REPORTS

Mark Zschack Administrator/Acting Clerk offered the following report:

Borough Sites and Street Issues

We are still awaiting the installation of the electric heaters at the Water Treatment Plant. We have been very lucky not to have any long spells of cold weather to adversely effect the Plant.

The Borough Roads were salted last night with no reports of any problems.

On January 6, 2012 the Borough received a Notice of Non-Compliance from NJDEP for a Treatment Technique Violation Exceeded the Maximum Allowable Turbidity Limit at the Water Treatment Plant. The Bureau determined that a Tier 2 public notification is appropriate due to the limited duration of this event. The public notice must be completed on or before January 23, 2012.

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Financial Controls/Legal Issues

The Hardyston construction budget line had a short fall of \$21,506 in 2011. The contract with Hardyston for the Construction Office is \$41,000 per year with any fees collected subtracted from the contracted amount. The office collected only about \$19,500 last year. The budget line had only \$4,000 therefore the transfers that are on the agenda are needed to secure payment to Hardyston.

We have received the first cut of the 2012 budget from Bill Zuckerman late last week and we will analyze and make changes with Bill before we present it to the Budget Committee.

Operational/Personnel Matters

We have reviewed some of the service contracts in the Borough to determine if we can save money by eliminating some services. One of the agreements that we have is with Dempsey Uniform and Linen Supply for the rugs in the hallways. We attempted to cancel this contract only to find out there is a penalty to do so. We are looking to reduce the number of times a Month the service is provided to save some money until the contract is up in March 2013.

Misc

The Contract between Wantage Township Fire Department and the Sussex Borough Fire Department for the years 2012 through 2016 is completed just waiting for signatures.

OLD BUSINESS

There was no old business at this time.

NEW BUSINESS

Approval of Meeting Minutes

Mr. Meyer made a motion to approve the meeting minutes of the Regular Meeting and Executive Session held on December 20, 2011, seconded by Mr. LaBar

Upon roll call vote:

Ayes: Dykstra, Fransen, LaBar, Meyer,

Nays: None Absent: Lagatutta Abstentions: Krynicky

Mr. Fransen made a motion to approve the meeting minutes of the Reorganization Meeting held on January 3, 2012, with the following changes, page 2 Resolution 2012-08R Mrs. Krynicky's vote is a Nay and page 7 remove Mr. Meyers vote from Ayes. Seconded by Mr. LaBar

Upon roll call vote:

Ayes: Dykstra, Fransen, Krynicky, LaBar, Meyer,

Nays: None Absent: Lagatutta Abstentions: None

Resolution #2012-33R – Transfers between Budget Appropriations

Mr. Meyer made a motion to adopt a resolution authorizing transfers between budget appropriations. Seconded by Mr. LaBar

Upon roll call vote:

Ayes: Dykstra, Fransen, Krynicky, LaBar, Meyer,

Nays: None Absent: Lagatutta Abstentions: None

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Resolution #2012-34R – Refunding Bonds

Mr. Meyer made a motion to adopt a resolution approving the refunding of certain bonds not to exceed the principal amount of \$6,300,000.00. Seconded by Mr. LaBar

Upon roll call vote:

Ayes: Dykstra, Fransen, Krynicky, LaBar, Meyer,

Nays: None Absent: Lagatutta Abstentions: None

Award of Contract – B & G Elevator for Preventative Maintenance

Mr. Meyer made a motion to enter into a contract with B & G Elevator in the amount of \$200.00 per month for the preventative maintenance of the elevator at 2 Main Street. Seconded by Mr. Fransen

Upon roll call vote:

Ayes: Dykstra, Fransen, Krynicky, LaBar, Meyer,

Nays: None Absent: Lagatutta Abstentions: None

Approval of Social Affair Permits for Sussex Fire Department

Mr. LaBar made a motion to approve social affair permits for the Sussex Fire Department on February 18, 2012. Seconded by Mr. Meyer

Upon roll call vote:

Ayes: Dykstra, Fransen, Krynicky, LaBar, Meyer,

Nays: None Absent: Lagatutta Abstentions: None

Discussion – Dam Engineer Contract

At this time a discussion took place regarding the contract for Dam Engineer. The rate schedules for two prospective engineers were distributed to the Council for review.

Mr. Zschack proposes that the Borough retain the services of Michael Vreeland and toward the end of this year review all the professional contracts it determine if a savings can be realized.

Mr. Fransen made a motion to adopt resolution 2012-13R appointing Michael Vreeland, P.E. of the firm Guerin & Vreeland Engineering as Sussex Borough Dam Engineer for the year 2012. Seconded by Mr. Meyer

Mayor Rose stated Resolution 2012-13R reads; be it resolved by the Governing Body of the Borough of Sussex hereby appoints Michael G. Vreeland, P.E. of the firm Guerin & Vreeland Engineering, Inc as Borough Dam Engineer for the year 2012. A motion is in order for the Council to accept the Mayor's appointment for the position of Borough Special Projects Engineer, further approving Professional Services Contract as set forth in N.J.S.A. 40A:11-5 of the Local Public Contracts Law.

Upon roll call vote:

Ayes: Dykstra, Fransen, Krynicky, LaBar, Meyer,

Nays: None Absent: Lagatutta Abstentions: None

Discussion – Chapter XIII Water and Sewer

At this time a discussion will take place regarding the discontinuance of water service.

Mayor Rose stated that water shut offs for the past quarter were scheduled to occur last week. Water shut offs have not been enforced for the last eighteen months and direction by the Council is needed on how to proceed. If no action is taken water shut offs will occur according to Ordinance or a resolution is needed to discontinue water shut offs.

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Mr. Zschack stated that information concerning the water utility has been distributed to the Council.

Mr. Dykstra asked if there is a law concerning water shut offs during certain months.

Mr. Ursin stated that advice is warranted on this matter in closed session under the attorney client context.

Mr. Meyer stated that since payment plans have been offered time should be given for compliance to the arrangements'. Mr. Meyer suggested that shut offs not occur at this time and the Council consider if they we resume in June.

Mr. Dykstra asked what the compliance rate of payment plans is.

Mayor Rose stated that the payment plans are designed to end before the shut offs are scheduled to occur. There is no payment plan within the Ordinance but the plans are designed to have the rate payer pay within the 90 day shut off time.

Mr. Dykstra stated that he would like to see a report on the payment plans.

Mrs. Krynicky stated that as a water customer she thought the water shut offs were occurring and the Borough should follow an Ordinance or amend it.

Discussion continued about incorporating a payment plan into the Ordinance.

Mr. Dykstra stated that he does not support shutting off water in the winter months.

Mr. Meyer stated that the purpose of payment plans and shut offs is to maintain a high collection rate. The data indicates that a high collection rate has been maintained partially due to payment plans. Mr. Meyer also agrees that water should not be shut off during the winter.

Mr. Ursin advised the Council that they should not get involved in adding a payment plan to the Ordinance. There are so few current plans and the collection rate has changed very little over four years.

Mayor Rose stated that the New Jersey Administrative Code stated that Municipalities should work with customers on payment plans and have guide lines on water shut offs.

Mayor Rose stated that more discussion is need in closed session and afterwards action may be taken.

Discussion – Crossing Guard

At this time a discussion took place regarding the crossing guard post at the intersection of Route 23 and Route 284.

Mr. Dykstra stated that he feels the Borough should contact the School and ask them to cover the cost of the crossing guard.

Mrs. Krynicky stated that she spoke to the Superintendent today and it did not go over well. Very few towns in the adjoining Counties have the School Districts pay for crossing guards. With this district being regional most members of the Board of Education are Wantage residents and very unlikely they would back Sussex Boroughs desire for them to pay for the crossing guards.

Mr. Dykstra stated that to save the life of one child it is worth it and with the fact this is a crazy corner the Borough should be committed to a guard until the realignment of Route 23 is completed.

Mrs. Krynicky stated that she is in favor of keeping the crossing guard post and to contact the School District to help finance it.

Mr. Dykstra suggested a letter be sent to the School District requesting they pay for the two crossing guard posts within the Borough and add a post to the intersection of Route 23 and Newton Avenue.

Mrs. Krynicky agreed with Mr. Dykstra's comment.

Mr. Dykstra made a motion to direct the Administrator/Clerk to draft a letter to the Sussex Wantage School District requesting the School pay for the two crossing guards and add a post to the intersection of Route 23 and Newton Avenue and to respond within thirty days. The crossing guard post at the intersection of Route 23 and Route 284 will be reinstated until otherwise determined. The motion was amended to extent the response date to March 1, 2012.

Seconded by Mrs. Krynicky

Upon roll call vote:

Ayes: Dykstra, Fransen, Krynicky, LaBar, Meyer,

Nays: None Absent: Lagatutta Abstentions: None

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OPEN PUBLIC SESSION #2

Mr. Fransen made a motion to open the meeting to the public for any questions or comments concerning the good and welfare of the Borough. All comments should be directed to the Mayor and are limited to 5 minutes. Seconded by Mr. Meyer All were in favor.

Mrs. Linda Masson 15 Spruce Avenue asked if the possibility exists to use the older students from the School as crossing guards instead of paid adults.

Mrs. Masson stated that if water shut offs are performed that they are enforced uniformly with no exceptions.

Mayor Rose stated that is what the Ordinance dictates.

Mrs. Terry-Ann Zander from the Advertiser News asked if there are plans to request the new CFO to attend Council meetings.

Mayor Rose stated that he will attend not on a regular basis but upon request of the Council or budget committee.

Mrs. Zander asked if anyone bid on the Borough's property that was up for auction.

Mr. Ursin stated that the sale under the current Ordinance was canceled but the Council may consider the sale in a different Ordinance.

Mrs. Zander asked what the reasons are to enter into executive session tonight.

Mr. Ursin stated that one of the categories under the open public meetings act to enter into executive session is to receive attorney client privileged advice.

Mrs. Zander asked if the transfer of money to pay Hardyston for the construction office was budgeted monies.

Mr. Zschack stated that the money was within last year's budget, it was just transferred from different lines.

Mrs. Georgeanne Stoll 18 Hill Street questioned what the Council has against her. Mrs. Stoll stated that she has volunteered for seven years and never had a problem until the new recreation administration started. There was a personality conflict and the new administration threatened to resign if she was not removed from the Committee and feels this was very unfair to her. Mrs. Stoll stated that she has emails and letters that state she is abusive, degrading, insulting, and bullying certain members of the Committee. Mrs. Stoll feels that she was the recipient of these actions. The correspondence that she possesses dates back to June and she was not removed until November. Mrs. Stoll defended her actions as a representative of the Recreation Committee.

There being no one else present who wished to address the Governing Body, Mr. Meyer made a motion to close the meeting to the public, seconded by Mr. LaBar All were in favor.

EXECUTIVE SESSION

In accordance with the provisions of the Open Public Meetings Act, Mr. Meyer made a motion at 8:51pm to adjourn into closed executive session to discuss attorney client privilege information concerning water shut offs. Motion seconded by Mr. Dykstra

Upon roll call vote:

Ayes: Dykstra, Fransen, Krynicky, LaBar, Meyer,

Nays: None Absent: Lagatutta Abstentions: None

Mayor Rose stated that action may be taken after closed session.

After meeting in closed session, the Governing Body returned to their seats at 9:21 p.m. and Mr. Meyer made a motion to adjourn out of closed executive session and to reconvene into open public session. Motion seconded by Mr. Fransen. All were in favor.

Mrs. Ursin gave a brief overview of the three additional items discussed in executive session. First there was a report to the Council on the High Ridge litigation. Second there was an update of the negotiation with the Flynn's on the sewer/septic problem. Third a brief discussion took place on the options and rights of the Borough concerning the contract with United Water.

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Mr. Dykstra made a motion not to enforce water shut offs scheduled for this quarter but to reinstated water shut offs for the next quarter. Seconded by Mr. LaBar.

Upon roll call vote:

Ayes: Dykstra, Fransen, Krynicky, LaBar, Meyer,

Nays: None Absent: Lagatutta Abstentions: None

MISCELLANEOUS COMMENTS

Mr. Ursin stated that he should receive direction if he should work on a new Ordinance for the sale of Block 504 lot 7.

Mayor Rose stated that the problem at this juncture is the valuation of the property.

Mr. Ursin stated that the assessment and market value are always the same. The fact that an auction is not an open market transaction the sale price may be less than the assessed or market value of the property.

Mr. LaBar asked if this property can be sold as a buildable lot.

Mr. Ursin stated that whenever a lot is sold conditions are placed in the Ordinance. These conditions would state that there is a resolution in place by the Planning Board and this resolution will be attached to the Ordinance. This is still considered a non-conforming lot that has dated approvals from the Land Use Board. This property can be auctioned to any bidder due to the fact there are approvals in place by the Planning Board.

Mr. Meyer stated that at this time a minimum bid can not be determined and this topic should be on the agenda for the next Council meeting.

Mr. Meyer stated that the Mayor is not a member of any subcommittee and he and the Council feel that he should be a member of some of the committees.

Mayor Rose stated that he will be on any Committee that the Council would request him to be a member.

Mr. Fransen felt that the Mayor should be the liaison to SCMUA.

Mr. Dykstra stated that Mr. Earl Snook should be contacted to give a presentation to the Council to discuss the water/sewer rate structure.

Mr. Meyer stated that he has already spoken to Mr. Earl Snook about doing a presentation to the Council. The last time the Borough did a rate study it cost about \$10,000.

Mayor Rose stated that the consensus of the Council is to contact Mr. Earl Snook to give a presentation to the Council.

Mr. Dykstra stated that the entrance roadway to Lake Rutherford is still washed out and there is no vehicle access to the reservoir. The road should be repaired as soon as possible in house if possible.

Mr. LaBar requested that the catch basins within the Borough be cleaned off on a regular basis and garbage in the roadways cleaned up. The tractor trailers are using Weibel Plaza again and need to be stopped.

ADJOURNMENT

There being no further items for discussion by the Mayor and Council, Mr. LaBar made a motion to adjourn the meeting, seconded by Mr. Dykstra All were in favor.