

**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
May 1, 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. Holowach, Mrs. Krynicky, Mr. LaBar, Mr. Lagattuta, Mr. Meyer, Mayor Rose.

Absent: Mr. Dykstra

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."

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.

Mr. Holowach made a motion to accept the consent agenda of May 1, 2012. Seconded by Mr. LaBar

Upon roll call vote:

Ayes: Holowach, Krynicky, LaBar, Lagatutta, Meyer,

Nays: None Absent: Dykstra 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. Holowach
All were in favor.

Mrs. Barbara Reichman 14 Cider Mill Lane Port Murray NJ, Director of the National Animal Interest Alliance stated that she reviewed the proposed dog and cat ordinance and has some concerns about it. The definition of a kennel with the inclusion of the number of dogs will automatically trigger a kennel license. Mrs. Reichman stated that this is an infringement on the rites of a individual to maintain the animals that they have. The restriction stated in 5.13e of one litter per year can also cause a problem with pet owners. In section 5.16 it states that any dog or cat off the premises of the owner without having a current registration tag on the collar is prohibited. Animals in dog shows are not allowed to have collars or tags. The provision of allowing an animal to be impounded due to death or a disability is inconsistent with the rest of the proposed ordinance.

Mrs. Karen Staudt-Cartabona PO Box 150 Swartswood, NJ. Stated that owners that have five dogs or more would need a kennel license and this could cause many problems with the owners.

Mrs. Jackie Wagner 108 Morris Turnpike Boonton, NJ stated that the intentions of the ordinance are good but impractical. People that own dogs should be the people that make the laws concerning dogs.

Michelle Garlack 64 Gill Road Ogdensburg, NJ stated that she is a dog breeder and involved in dog rescue originations. The proposed ordinance would not allow her to rescue dogs if she lived in Sussex Borough. The number of dogs and amount of litters per year are concerns with this ordinance.

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

COUNCIL DISCUSSION OF OPEN SESSION ITEMS

There was no discussion at this time

ADMINISTRATORS REPORT

Mr. Mark Zschack the Administrator/Clerk offered the following report;

Borough Sites and Street Issues

The Streets and Roads Committee met on Friday the 27th many topics were discussed including hydrant replacement, air release valves, replacement of curb boxes, and Brush pickup. It was the consensus of the Committee to abide by the current Ordinance for brush pickup that states "The bundles or packages shall be of a size and weight to permit ease of handling by one man and shall be packaged or otherwise assembled in quantities weighing not more than 40 pounds." A brush removal policy will be drafted then posted on the Borough website and we are looking into including it in the next mailing of the tax bills.

The sewer force main will be tested on May 9th to determine if a chemical injector system is warranted to secure the integrity of the main. The need of this system as been questioned for some time and this sampling should help establish an answer.

Financial Controls/Legal Issues

Budget Summary-Expenditures spreadsheets current to March 31, 2012 have been distributed for review. Within the first week of each month an updated sheet will be created and disbursed to the Mayor and Council.

The annual audit started today the office was extremely busy retrieving documents for their review the process is expected to take about a week.

Misc

On April 28, 2012 Sussex County is sponsoring a Prescription Drug Disposal Event from 10am to 2pm.

Local drop off locations are Sussex A&P 455 Route 23 north and Vernon A&P Route 515

OLD BUSINESS

Mr. LaBar made a motion to amend the agenda and add discussion on the sale of the property on Harrison Street that did not sell at the previous auction. Seconded by Mr. Holowach

After a discussion about some possible reasons that the property did not sell, including price, and if more advertising is warranted the Council directed the Borough Attorney and Borough Clerk to draft an ordinance to auction the lot on Harrison Street with a starting bid of \$5,000.00.

NEW BUSINESS

Approval of Meeting Minutes

Mr. Meyer made a motion to approve the meeting minutes of the Regular Meeting held on April 3, 2012 Seconded by Mr. LaBar

Upon roll call vote:

Ayes: Krynicky, LaBar, Lagattuta, Meyer,

Nays: None Absent: Dykstra Abstentions: Holowach

Approval of Meeting Minutes

Mr. Meyer made a motion to approve the Executive Session minutes of the Regular Meeting held on March 6, 2012 Seconded by Mr. LaBar

Upon roll call vote:

Ayes: Krynicky, LaBar, Meyer,

Nays: None Absent: Dykstra Abstentions: Holowach, Lagatutta

Resolution 2012-61R 2011 Tonnage Grant Application

Mr. LaBar made a motion to adopt a Resolution endorsing the submission of the 2011 Recycling Tonnage Grant Application to the New Jersey Department of Environmental Protection and Energy, Office of Recycling Seconded by Mr. Meyer

Upon roll call vote:

Ayes: Holowach, Krynicky, LaBar, Lagatutta, Meyer,

Nays: None Absent: Dykstra Abstentions: None

Resolution 2012-62R Honoring Eagle Scout

Mr. LaBar made a motion to adopt a resolution congratulating Timothy Mitchell for achieving the rank of Eagle Scout as a member of Boy Scout Troop 84. Seconded by Mr. Lagatutta

Upon roll call vote:

Ayes: Holowach, Krynicky, LaBar, Lagatutta, Meyer,

Nays: None Absent: Dykstra Abstentions: None

Resolution 2012-63R Approve Settlement

Mr. Meyer made a motion to adopt a resolution approving the settlement in the matter of Owen v. Mayor and Council of the Borough Sussex, bearing Docket Number SSX-L-332-11, as recommended. Seconded by Mr. Holowach

Mayor Rose stated that the Borough's share of the settlement is \$5,000.00 because of our deductible with the insurance company.

Mr. Ursin stated that the Borough has insurance to handle this type of lawsuit and it is the recommendation of the insurance company to settle this case. Due to the Borough's insurance deductible the amount of the Borough's exposure is \$5,000.00 if the case is won or lost so cost should not be a factor in the Council's decision. Discussion continued about the pros and cons of the settlement.

Upon roll call vote:

Ayes: Holowach, LaBar, Lagatutta,

Nays: None Absent: Dykstra Abstentions: Krynicky, Meyer

Resolution 2012-64R Water/Sewer Adjustments

Mr. Holowach made a motion to adopt a resolution approving the Second Quarter 2012 Water/Sewer Adjustments. Seconded by Mr. LaBar

Mr. Ursin recommended that any document that is presented to the Council recommending monetary adjustments should contain the signature of the individual requesting said change.

Upon roll call vote:

Ayes: Holowach, Krynicky, LaBar, Lagatutta, Meyer,

Nays: None Absent: Dykstra Abstentions: None

Introduction Ordinance 2012-07 – Modify Chapter 5

Mr. Meyer made a motion to introduce an ordinance entitled “AN ORDINANCE TO MODIFY CHAPTER 5 THE CODE OF THE BOROUGH OF SUSSEX REGARDING DOGS AND CATS”
Seconded by Mr. LaBar

After a brief discussion the consensus of the Council is that the definition of kennel should be changed to “**five** or more dogs of licensing age are kept or maintained for any reason in any one place or establishment”.

Mr. Holowach amended the motion to amend the definition located in 5.1 for kennel to indicate “five dogs or more of licensing age” would trigger a definition of kennel, Seconded by Mrs. Krynicky All were in favor

Discussion continued about other sections of the proposed ordinance and the consensus was not to make any other changes.

Upon roll call vote:

Ayes: Holowach, Krynicky, LaBar, Lagatutta, Meyer,

Nays: None Absent: Dykstra Abstentions: None

Mayor Rose stated that the final reading on this ordinance will be on May 15, 2012

Adoption Ordinance 2012-08 – Sale of Block 301.08 Lot 66

Mr. Meyer made a motion to adopt an ordinance entitled “AN ORDINANCE OF THE BOROUGH OF SUSSEX, COUNTY OF SUSSEX, STATE OF NEW JERSEY AUTHORIZING THE SALE OF CERTAIN PROPERTY OWNED BY THE BOROUGH AND NOT REQUIRED FOR PUBLIC PURPOSES AND MORE COMMONLY KNOWN AS BLOCK 301.08 LOT 66
Seconded by Mr. Holowach

Upon roll call vote:

Ayes: Holowach, Krynicky, LaBar, Lagatutta, Meyer,

Nays: None Absent: Dykstra Abstentions: None

Mr. Meyer made a motion to rescind the previous vote to adopt ordinance 2012-08
seconded by Mr. Holowach

Upon roll call vote:

Ayes: Holowach, Krynicky, LaBar, Lagatutta, Meyer,

Nays: None Absent: Dykstra Abstentions: None

Mr. Meyer made a motion to adopt an ordinance entitled “AN ORDINANCE OF THE BOROUGH OF SUSSEX, COUNTY OF SUSSEX, STATE OF NEW JERSEY AUTHORIZING THE SALE OF CERTAIN PROPERTY OWNED BY THE BOROUGH AND NOT REQUIRED FOR PUBLIC PURPOSES AND MORE COMMONLY KNOWN AS BLOCK 301.08 LOT 66
Seconded by Mr. Holowach

Before final roll call Mayor Rose opened the meeting to the public for any questions or concerns that they may have regarding Ordinance #2012-08.

There being no one from the public who wished to address the Governing Body regarding Ordinance #2012-08, Mayor Rose closed the meeting to the public and returned to the regular order of business.

Upon roll call vote:

Ayes: Holowach, Krynicky, LaBar, Lagatutta, Meyer,

Nays: None Absent: Dykstra Abstentions: None

Discussion – Proposed Sign Ordinance

Mayor Rose stated that at this time a discussion will take place regarding sections 7.5 and 7.6 of the proposed sign ordinance.

Mr. Lagattuta asked if window painted signs are regulated within this ordinance. Mr. Ursin stated that they are regulated in section 7.1.

After a brief discussion about neon signs and video signs the consensus was to remove [do you want to regulate neon signs?] from section 7-5.4. Section 7-5.4 and 7-5.5 will be combined to read “Neon, Lighted and Video signs in windows shall be permitted and deemed to be a window sign and included in the calculation of the total window sign area.”

After a brief discussion about temporary signs is was the consensus of the Council to make the following changes;

Section 7-6.1b should read “A non-illuminated temporary sign on a new construction site, not exceeding **32** square feet in sign area, is permitted in any zone, provided that the sign shall be maintained in good condition and removed within seven days after completion of the construction work.”

Section 7-6.1d should read “A temporary sign announcing or supporting political candidates or issues in connection with any national, state or local election or an event sponsored by a nonprofit organization shall be permitted to be displayed in any zone prior to the election or event and not more than three days following the election or event.”

Section 7-6.1e should read “Temporary signs shall be permitted in any location in the Borough in celebration of public events, to call attention to dates of holidays of public significance, or to provide important public information when erected by the Borough itself or otherwise authorized by the governing body.”

Mr. Ursin stated that in section 19 all references to temporary sign regulations were removed so all temporary ordinances would be found in chapter 7 instead of in the land use ordinances.

After a brief discussion it was the consensus of the Council to formulate a subcommittee to meet with the local merchants to hear their input.

Mr. Holowach made a motion to form a subcommittee, consisting of Mr. Holowach, Mrs. Krynicky, and Mr. Meyer to meet with the local merchants to discuss the proposed sign ordinance. Seconded by Mrs. Krynicky All were in favor

Discussion – Flynn Sewer Proposal

At this time a discussion took place regarding the April 23, 2012 letter from William Kehoe concerning the sewer connection of Richard & Pamela Flynn.

Mr. Meyer made a motion to move this matter into executive session Seconded by Mr. Lagattuta All were in favor

OPEN PUBLIC SESSION #2

Mr. Holowach 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 were the Borough’s stands with the I&I project.

Mr. Zschack stated that the engineer is attempting to schedule all parties involved to create one change order to the contractor.

Mrs. Masson asked were do we stand at getting restitution from United Water regarding the neglect to the treatment plant.

Mayor Rose stated that this can not be discussed at this time.

Mrs. Masson stated that she feels that in the sign ordinance more than three days should be given to remove the political signs after the election.

Mrs. Katherine Little 27 Clove Avenue offered an apology for her failure to attend the ceremony to honor Eagle Scout recipient Timothy Mitchell. Mrs. Little was under the impression the ceremony was to take place at the Elks Lodge and once the correct location was determined it was too late to attend.

Mayor Rose stated that he and the Council appreciates her desire to attend and understands that sometimes mistakes happen.

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

COUNCIL DISCUSSION OF OPEN SESSION ITEMS

There was no discussion at this time

EXECUTIVE SESSION

In accordance with the provisions of the Open Public Meetings Act, Mr. Lagattuta made a motion to adjourn into closed executive session to discuss attorney client privilege matters. Motion seconded by Mr. Holowach

Upon roll call vote:

Ayes: Holowach, Krynicky, LaBar, Lagattuta, Meyer,

Nays: None Absent: Dykstra Abstentions: None

After meeting in closed session, the Governing Body returned to their seats at 9:47 p.m. and Mr. LaBar made a motion to adjourn out of closed executive session and to be reconvened into open public session. Motion seconded by Mr. Holowach All were in favor.

Mr. LaBar stated that a letter needs to be mailed to all Grove Street residents notifying them of the pending construction and informing them if gas service is wanted it should be connected before the completion of construction.

ADJOURNMENT

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