

**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
OCTOBER 15, 2013**

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: Mrs. Marina Krynicky, Mr. Bruce LaBar, Mr. Salvatore Lagattuta, Mrs. Linda Masson, Mr. Edward Meyer, Mrs. Annette Stendor, Mayor Jonathan Rose.

Absent: None

Also present: Borough Attorney Mr. John Ursin Esq. of Schenck, Price, Smith & King, LLP and Mr. Mark Zschack, Municipal Administrator/Clerk

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."

COUNCIL MOTIONS: Mayor Rose opened the floor to each member of the Council to offer any motions not currently on the agenda.

Mrs. Masson made a motion to terminate the Borough's affiliation with Mr. John Ursin and the law firm of Schenck, Price, Smith & King effective immediately.
Motion seconded by Mrs. Stendor

Mrs. Masson stated that she would like to present some information. "On July 3rd I had emailed Mark Zschack and was asking how we were named party in the action between the Sussex Inn and the State and also asked for the initial paper work. We went back and forth and John Ursin and Mark and I went back and forth. At one point Jonathan got involved and asked me what are you looking for? I said there has to be some kind of paperwork how do we know that we are getting this money. I never did receive any paperwork at that time. I found out last week from you, Jonathan, that the Herald got a stack of paperwork. I followed up and asked for copies of all of the paperwork. I have the pile in my briefcase but John Ursin is listed as the counsel to the Sussex Inn. I found this particularly odd because I was specifically was asking questions. It is obvious to me now that information was intentionally kept from me. I saw the article in Sunday's paper. Mr. Ursin was quoted "if this action may now give the appearance of a conflict" he was bowing out of that with the Sussex Inn. My question is it's now looking like a conflict? I believe it hasn't changed from the very beginning. If it was a conflict now it was a conflict when it started. I am going to read from the local government ethics law. One of the most important aspects to remember about the local government ethics law is that it is the potential for conflict that matters and not any actual proof of wrongdoing. I can't believe an attorney would not know, this is very simple, very forthright. There is nothing hidden in this. There is no doubt in my mind that there is an ethics violation here and further in my opinion anyone who votes to continue this affiliation is guilty of an ethics violation as well. I took an oath to represent this community, not myself, not my friends and not my political allies. I think there is a whole other dynamic going on here and it really needs to stop. If it doesn't I certainly hope the voters take note of who is voting in which manor."

Mr. Sal Lagattuta stated that he would like the record to show that Mrs. Masson's statements about voting and being ethical, depending on the vote, is solely her opinion. Not necessarily any guideline or stated matter.

Mrs. Masson stated yes it is her opinion based on the ethics law.

Mr. Lagattuta stated he wanted to make sure that it is only Mrs. Masson's opinion.

Mrs. Stendor stated that "I guess the question is does everyone feel that the attorney should stay being what has happened and what is in the newspaper. Or do you want to get another attorney. Are we going to pay for two?"

Mrs. Krynicky stated "do we really run this town in the newspaper?"

Mrs. Masson stated that it did appear in the newspaper.

Mrs. Krynicky stated that "we do not run this town by the newspaper."

Mrs. Masson stated that "we usually run this town behind closed doors."

Mrs. Krynicky stated that "we run this town here every other Tuesday."

Mrs. Masson stated that "I think the public has the right to know what is going on because there is something's that have been going on in here for a very long time.

Mrs. Krynicky stated "in your opinion."

Mrs. Masson stated "definitely and I have the proof. I don't just go with my opinion"

Mrs. Krynicky stated "in your opinion."

Mrs. Masson stated "Marina you never attended meeting back then you have no idea what went on"

Mrs. Stendor stated "it's a big issue and everyone is talking about it and we all sit here and do nothing?"

Mr. Lagatutta stated that "because of the standing of the Sussex Inn and how people in this community have various different opinions. That has made this issue come forward a lot. If this had happened and the Sussex Inn was not involved I dare say that we would not be looking at seaming importance of this issue. I think that there was an error in judgment and feel that we should have been notified of the affiliation with the Sussex Inn at the time it was done. I don't think this warrants any action at this point. It was a bad judgment call and do not think it demands an immediate dismissal right now. One of the things to look at is hiring a conflict counsel to review this matter to see what professionals at the bar would say before contemplating any action. We could be seeing this as something that is very important to some of us but to others it might not seem that important. Is it an error of judgment, yes is it something that we need immediate termination I don't think so."

Mrs. Masson stated "I would like to correct something you said. You said that if was anybody else and not the Sussex Inn. This has nothing to do with the Sussex Inn this has to do with John Ursin and the fact he was representing a party while he was representing the Town. We are all involved in this matter. I don't care if it was Rite Aid or something it would not matter it is a conflict. It is stated right in the ethics. The fact that it always seems to be the Sussex Inn that everybody gets involved in. I can't even comment on that"

Mr. Lagatutta stated "I feel that the involvement of the Sussex Inn has made it mushroomed far more than what it might need to be"

Mrs. Masson stated "I disagree"

Mrs. Stendor stated "we are talking about four more meetings that's all until the end of the year. Come January first who knows what's going to take place. There could be a list of people that would be eligible for the position including Mr. Ursin if that's the way you feel. For right now it is a hot issue and I think with what had just taken place we really need to have someone step in and take over at this point until the end of the year. We are only talking about a couple of months which is four meetings.

Mrs. Masson stated "I specifically asked for information and it was intentionally withheld from me."

Mayor Rose stated that "we need to be careful about that"

Mrs. Masson stated "I asked specific questions and I was not given the information. The Herald was given the information before I was given the information there is something wrong here."

Mr. Lagattuta stated "I do not know about your information"

Mrs. Masson stated "I can show you the emails. They are documents I'm not making this up. Now I can not feel comfortable going to Mr. Ursin for any further information or counsel or anything because I went that route it does not work."

Mr. Meyer stated "I have been affiliated with the Council for about six years and with Mr. Ursin in that timeframe. I have found that his judgment has been beyond reproach. Did something come down here at this juncture and he withdrew from representing the Sussex Inn. In my mind that is sufficient."

Mrs. Masson stated "what was the difference from having it appear like there was a conflict at this point or at the very beginning? It's the same case it's the same affiliation. The only difference is he got caught."

Mr. LaBar asked "can I make a comment about what you are saying? First of all the Borough has not been wronged. We are not involved in any litigation verses the DOT Right-of-way. This is the only subject that is being considered right now is your pressing for the DOT's Right-of-way acquisition of the Sussex Inn. We are not involved in that.

Mrs. Masson stated "I'm pressing for that?"

Mr. LaBar stated "Yes you are the one, dying to know how much the Sussex Inn was getting from the DOT."

Mrs. Masson stated "excuse me did you read my emails?"

Mr. LaBar stated "You were dying the night that it came to the Council to know how much the Sussex Inn was getting from the DOT for their Right-of-way. You turned and asked how much are they getting."

Mrs. Masson stated "what's wrong with that, what's wrong with that?"

Mr. LaBar stated "It's nothing we are not involved in the lawsuit."

Mrs. Masson stated "excuse me we are mentioned in all these documents and so is the Sussex Inn, it's a conflict."

Mr. LaBar stated "I was through this long before you were ever on the Council. We are only named because we have a lien on the taxes and water bill. We are not party to any lawsuits or condemnation. "

Mrs. Masson stated "it is the appearance, do you want me to read the ethics?"

Mr. LaBar stated "its appearance in your mind"

Mrs. Masson stated "no it's not in my mind because I have gotten calls from numerous people."

Mr. LaBar stated "first of all we have a contract that we can't break with Mr. Ursin."

Mrs. Masson stated "I believe that under these circumstances we could"

Mr. Meyer stated "I do not think it is necessary the break Mr. Ursin's contract."

Mrs. Masson made a motion to call for a vote and terminate discussion on this matter.

Motion seconded by Mr. Meyer

All were in favor.

Upon roll call vote of original motion:

Ayes: Masson, Stendor

Nays: Krynicky, LaBar, Lagattuta, Meyer

Abstentions: None

Absent: None

COMMITTEE REPORTS: Mayor Rose opened the floor to each member of the Council to offer their respective committee reports.

Mr. Meyer offered no report at this time.

Mr. Lagattuta stated that "we are trying to schedule a DPW meeting the problem is that I have not been around much." Discussion continued as to possible dates of this committee meeting. The consensus was to set a meeting date after the conclusion of this meeting.

Mr. Lagattuta stated that the Planning Board was cancelled last month.

Mrs. Krynicky stated "the Recreation Committee met last week and we are still continuing to discuss Halloween. The date is October 26th. We are also discussing Christmas. I went to a League of Municipalities meeting with Ed and the topic was the influx of drugs in Sussex County it was very interesting."

Discussion ensued concerning if Sussex has a Drug Alliance and the consensus was to establish an alliance with Wantage Township.

Mr. LaBar offered no report at this time.

Mrs. Stendor offered the following report:

SC Solid Waste Advisory Council Report 2013 October 8, 2013

The (SWAC) Sussex County Solid Waste Management meeting was held on October 8, 2013 and a presentation was given by a Mr. Fisher. Who is the owner operator of a compost farm on Rt. 603 in Andover Township. He has been at this location for about 6 years and is intending to expand his operation. The waste food to compost is processed and sold to garden centers and landscaping companies. They are expanding and need to have permission from SWAC.

Tom Varro gave his report and said there is a 2% increase in tonnage at the landfill.

Reenee Casapulla from SWAC said there will be a meeting at the Lafayette building October 22, at 10 am for the municipal recycling coordinators from each town.

SC Water Quality Management Meeting of October 10, 2013

Sparta Township has an application before the board for the North Village to install a hook-up pump to SCMUA. This needs to have further review by the DEP.

They are still reviewing the mapping for Sussex County.

Mrs. Masson stated "I attend a SCMUA meeting on October 2nd. The Vernon A&P is looking to connect to SCMUA via their pump stations. Vernon's engineer has said OK to that. There waiting for Tom Varro SCMUA's engineer to give his OK and then it will come before the Commissioners for a vote. The DEP approved a \$700,000 grant for the upper paulinskill project having to do with solid waste. They also discussed Champions for Charity Food drive that is done by all the schools in the area. This year, what John Hatzelis said was, instead competing one school against another school they were going to competing within school. They had concerns about insurance and so on. John had said that he only wanted eighteen year olds to be driving in there. They spoke about the fact that they are doing this as part of requirement for community service in order to graduate. I told John by the time they are eighteen they are done with their community service, pretty much. I do not know how they are going to work that out.

Mr. Lagattuta asked "why eighteen and not seventeen?"

Mrs. Masson stated "I guess for insurance reasons that's what I gather. They are not done talking about that. I have not talked to the High School either because I do not know what their intention is. October 9th I also attend the Sussex County League of Municipalities meeting the Municipal Approach to the Substance Abuse Epidemic in Sussex County. They had a panel of individuals talking about every aspect of the problem. I found it fascinating they said that basically these people are coming up here from the cities because Sussex County is just ripe for the picking and they can charge more for their drugs. I did not realize what a problem it was."

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.

Mrs. Masson made a motion to accept the consent agenda of October 15, 2013. Motion seconded by Mr. Lagattuta

Upon roll call vote:

Ayes: Krynicky, LaBar, Lagattuta, Masson, Meyer, Stendor

Nays: None

Abstentions: None

Absent: 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 with a total of 10 minutes for the Council to discuss. Motion seconded by Mrs. Krynicky
All were in favor.

Ms. Julia Devine 4 Main Street, Sussex stated she wished people were at her house on Sunday morning her phone started ringing at 5:35 am. Mrs. Devine stated that she had already read the article.

Mayor Rose stated that this open session is only for topics that are on the agenda.

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

ADMINISTRATORS REPORT

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

The DEP conference call was held on October 7th representing the Borough was Mike Furrey, Mayor Rose and I. Main topics included the bag filter, RFP for valves & actuators, alarm & computer system, Sussex water tank and flocculation tanks. It was explained that the bag filter RFP is completed and will be sent out for bids. The RFP for the valves and actuators should be completed by the end of the month. The first of two main concerns was

the incorporation of the Sussex tank into the system. Currently only a small amount of water is circulated in and out of this tank. The possibility of installing an electric valve and actuator in the PRV vault needs to be considered. The flocculation tanks at the plant are leaking and needs to be addressed very soon. The DEP requested an Engineers report but the Council should consider just fixing them without the expense of a report. The next conference call is scheduled for November 14th.

The RFP for the purchase and installation of the bag filter was noticed in the paper on Friday October 11th. The opening of the sealed bids will occur on Tuesday October 29th at 10am in the Municipal Building.

The Sussex Borough Tax Sale is scheduled to take place at the Municipal Building on December 11th at 10 am.

The Stump Removal Plan has been completed and forwarded to the State for their approval. It appears that the Borough will be able to complete this project in-house with the DPW performing all work.

The Borough has considered removing the timber bridge located on the Lake Rutherford dam to satisfy DEP Division of Dam Safety. Rebecca Fitzgerald, Superintendent at High Point State Park has informed us that for emergency and maintenance purposes they would like this access to remain. Emergency vehicles would be severely delayed should there not be an option for park police to drive over the dam. Alternatives for the removal of the bridge will now need to be explored.

Pete Soldano, President of High Point Football League notified the Borough that the concessions stand and announcer's booth were broken into sometime Sunday night. Both doors were kicked in and items stolen from each building. The football league lost 2 laptop computers, 2 sets of speakers, mixing boards and other items. The league repaired both doors on Monday and is asking the Borough to consider installing a camera system to deter thieves in the future.

Construction began today on the Willow Street Section I Improvement Project. We met with Todd Cooke, Site Supervisor this morning to review the project and discuss the school bus stops. Mr. Cooke assured us that the road will remain open to allow the bus to pass during the pick up and drop off of students.

OLD BUSINESS

There was no old business discussed at this time.

NEW BUSINESS

Approval of Meeting Minutes

Mr. LaBar made a motion to approve the meeting minutes of the Regular Meeting held on September 17, 2013. Motion seconded by Mrs. Stendor

Upon roll call vote:

Ayes: Krynicky, LaBar, Masson, Stendor

Nays: None

Abstentions: Lagattuta, Meyer

Absent: None

Approval of Meeting Minutes

Mrs. Krynicky made a motion to approve the meeting minutes of the Regular Meeting held on October 1, 2013. Motion seconded by Mr. Lagattuta

Upon roll call vote:

Ayes: Krynicky, LaBar, Lagattuta, Masson, Meyer, Stendor

Nays: None

Abstentions: None

Absent: None

Resolution 2013-110R – Water/Sewer Adjustments

Mr. LaBar made a motion to adopt a resolution approving water/sewer adjustment for the third quarter 2013. Motion seconded by Mrs. Masson

Upon roll call vote:

Ayes: LaBar, Lagattuta, Masson, Meyer, Stendor

Nays: None

Abstentions: Krynicky

Absent: None

Resolution 2013-111R – Establish Current Fund Surplus Policy

Mr. LaBar made a motion to adopt a resolution establishing a current fund surplus policy for the Borough as part of the State of New Jersey's Best Practices Checklist.

Motion seconded by Mr. Lagattuta

Upon roll call vote:

Ayes: Krynicky, LaBar, Lagattuta, Masson, Meyer, Stendor

Nays: None

Abstentions: None

Absent: None

Resolution 2013-112R – Establish Water/Sewer Fund Surplus Policy

Mrs. Masson made a motion to adopt a resolution establishing a water/sewer fund surplus policy for the Borough as part of the State of New Jersey's Best Practices Checklist.

Motion seconded by Mrs. Stendor

Upon roll call vote:

Ayes: Krynicky, LaBar, Lagattuta, Masson, Meyer, Stendor

Nays: None

Abstentions: None

Absent: None

Resolution 2013-113R – Appointing Special Projects Engineer

Mr. LaBar made a motion to adopt a resolution accepting the Mayor's appointment of Gerald G. Gardner, P.E., of the firm Houser Engineers, LLC as special Projects Engineer to resubmit a permit application to construct, modify & operate public water works as outlined in a revised proposal dated October 11, 2013. Motion seconded by Mrs. Krynicky

Upon roll call vote:

Ayes: Krynicky, LaBar, Lagattuta, Masson, Meyer, Stendor

Nays: None

Abstentions: None

Absent: None

Replace Brick Pavers on Main Street

Mrs. Stendor made a motion to direct the QPA to solicit proposals for the Borough to replace damaged bricks on Main Street amount not to exceed \$25,000.

Motion seconded by Mrs. Masson

Mrs. Stendor stated that "At no time did I ever say that I wanted to spend \$25,000 to have the pavers replaced or repaired. I wanted to have a discussion between the Council about doing something on Main Street because the pavers are missing and it's dangerous. The town is responsible if anyone gets hurt. I think it seriously needs to be looked into. According to the ordinance the business owners are responsible to repair the sidewalks."

Discussion continued in reference to the current Ordinance and who has the responsibility to repair the walks. The consensus was to have the DPW Committee review this issue at the next committee meeting and return a recommendation to the Council.

Upon roll call vote:

Ayes: None

Nays: Krynicky, LaBar, Lagattuta, Masson, Meyer, Stendor

Abstentions: None

Absent: None

Designate Name of Route 23 South

Mrs. Stendor made a motion to direct the Clerk to prepare a resolution naming the new section of Route 23 South from Brookside Avenue southward "Standard Avenue".

Motion seconded by Mrs. Masson

A brief discussion ensued about possible names for this section of the new southbound lanes of Route 23. The consensus was to have the Redevelopment Committee review this issue at the next committee meeting and return a recommendation to the Council.

Upon roll call vote:

Ayes: None

Nays: Krynicky, LaBar, Lagattuta, Masson, Meyer

Abstentions: Stendor

Absent: None

Redevelopment Plan

Mrs. Masson made a motion to refer the draft entitled "The Route 23 Redevelopment Plan Borough of Sussex, Sussex County, New Jersey" dated October 3, 2013 to the Sussex Borough Planning/Zoning Board for their review and comments.

Motion seconded by Mr. Meyer

Upon roll call vote:

Ayes: Krynicky, LaBar, Masson, Meyer

Nays: None

Abstentions: Lagattuta, Stendor

Absent: None

Discussion of the Procurement Card Program

Mr. Mark Zschack and Mr. John Ursin presented a brief overview of the Procurement Card Program. Advantages and disadvantages of this program were review and discussed.

2013 Best Practice Worksheet

Mrs. Masson made a motion to accept the Best Practice Worksheet prepared by the CFO and Administrator and have the Clerk certify said document for transmittal to Trenton.

Motion seconded by Mr. Lagattuta

Upon roll call vote:

Ayes: Krynicky, LaBar, Lagattuta, Meyer, Stendor

Nays: Masson

Abstentions: None

Absent: None

Approval of Substitute Crossing Guard

Mrs. Krynicky made a motion to approve Steve Danner as a substitute Crossing guard at the rate of \$10.20 per hour. Motion seconded by Mr. Meyer

Upon roll call vote:

Ayes: Krynicky, LaBar, Lagattuta, Masson, Meyer, Stendor

Nays: None

Abstentions: None

Absent: None

OPEN PUBLIC SESSION #2

Mr. Meyer 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 with a total of 10 minutes for the Council to discuss. Motion seconded by Mrs. Masson
All were in favor.

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

EXECUTIVE SESSION

No Executive Session was requested.

ADJOURNMENT

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

Jonathan Rose, Mayor

Mark Zschack, Municipal Clerk