

**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
July 1, 2014**

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, Mrs. Georgeanna Stoll, Mayor Jonathan Rose.

Absent: Mrs. Annette Stendor

Also present: Borough Attorney Mr. Frank McGovern, Esq. of McGovern and Roseman, P.A. 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.

No motions were offered at this time.

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

Mrs. Masson offered the following report: I attended a SCMUA meeting on June 18th and one of the things that John Hatzelis had mentioned was that the connection fees for SMCUA exceeded their budget projections. They had a household hazard waste day event and they were not happy with the vendor they hired.

Mrs. Krynicky offered the following report: I attended the 8th grade Sussex Middle School graduation which was held at Kittatinny Regional High School.

Mr. LaBar reported on the exit audit with the auditors and the Mayor.

Mr. Lagattuta offered no report at this time.

Mrs. Stoll offered the following report: the High Point Board of Education is meeting on July 15th and will be filling two vacancies. The recreation committee held the Miss Sussex Contest. There were three (3) contestants for Little Mister, six (6) contestants for Little Miss and three (3) contestants Miss Sussex. It went pretty well, I think. It was very close. The winners were, Little Mister Nathan Houghtaling and the runner up was Albert Decker IV, Little Miss Larissa McKay and runner up Madison Hall and Miss Sussex Catherine Henckel and runner up was Alison Masson.

CONSENT AGENDA

Mayor Rose requested that the Governing Body review the consent agenda. If any member of the Council desires an item to be removed, the Municipal Clerk shall remove said item, which will then be considered separately.

Mrs. Masson requested that item number 3 under Correspondence be removed and considered separately.

CORRESPONDENCE (ACCEPTANCE FOR FILING ONLY OF THE FOLLOWING):

1. Letter dated June 17, 2014 from Joseph Birchenough Manager Bureau of Local Aid to Mayor Rose in regards to the executed agreement approved by the DOT for Overlook Drive in the amount of \$140,057.00

2. Letter dated June 26, 2014 from Thomas Ferry, Borough Auditor, to the Mayor and Council in regards to the findings from the audit performed.
3. Letter dated June 25, 2014 from Fred Sickles, Director of Division of Water Supply & Geoscience with NJDEP to Mark Zschack in regards to a requirement to conduct a comprehensive performance Evaluation (CPE) and Comprehensive Technical Assistance (CTA), Requirement to demonstrate technical, managerial and financial capacity.

REPORTS (ACCEPTANCE FOR FILING OF THE FOLLOWING):

1. Unpaid utility properties report as of June 27, 2014.
2. Delinquent utility properties report as of June 27, 2014.
3. Sussex County Planning Board minutes from April 7, 2014.

APPLICATIONS (APPROVAL OF THE FOLLOWING):

RESOLUTIONS: (APPROVAL OF THE FOLLOWING):

Payment of bills for the meeting of July 1, 2014

Mr. Lagattuta made a motion to accept the consent agenda of July 1, 2014 with the removal of item number 3 under Correspondence. Motion seconded by Mrs. Stoll

Upon roll call vote:

Ayes: Krynicky, LaBar, Lagattuta, Masson, Stoll

Nays: None

Abstentions: None

Absent: Stendor

Mrs. Masson made a motion to accept item number 3 under Correspondence on the July 1, 2014 Consent Agenda. Motion seconded by Mr. Lagattuta.

A brief discussion ensued concerning a Letter dated June 25, 2014 from Fred Sickles, Director of Division of Water Supply & Geoscience with NJDEP to Mark Zschack in regards to a requirement to conduct a comprehensive performance Evaluation (CPE) and Comprehensive Technical Assistance (CTA), Requirement to demonstrate technical, managerial and financial capacity.

Upon roll call vote:

Ayes: Krynicky, LaBar, Lagattuta, Masson, Stoll

Nays: None

Abstentions: None

Absent: Stendor

OPEN PUBLIC SESSION #1

Mr. LaBar 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. Masson
All were in favor.

Mr. Jeff Parrott, County Clerk, handed to the Mayor and Council the Sussex County Official Directory for 2014.

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

ADMINISTRATORS REPORT

Mr. Mark Zschack the Administrator/Clerk offered no report at this time.

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 June 4, 2014. Motion seconded by Mr. Lagattuta

Upon roll call vote:

Ayes: Krynicky, LaBar, Lagattuta, Masson, Stoll

Nays: None

Abstentions: None

Absent: Stendor

Approval of Meeting Minutes

Mr. LaBar made a motion to approve the meeting minutes of the Regular Meeting held on June 17, 2014. Motion seconded by Mrs. Stoll

Upon roll call vote:

Ayes: Krynicky, LaBar, Lagattuta, Masson, Stoll

Nays: None

Abstentions: None

Absent: Stendor

Adoption Ordinance #2014-06 - \$730,000 Bond Ordinance

Mr. Lagattuta made a motion to adopt Ordinance #2014-06 entitled "BOND ORDINANCE APPROPRIATING \$730,000, AND AUTHORIZING THE ISSUANCE OF \$730,000 BONDS OR NOTES OF THE BOROUGH, FOR VARIOUS IMPROVEMENTS OR PURPOSES AUTHORIZED TO BE UNDERTAKEN BY THE BOROUGH OF SUSSEX, IN THE COUNTY OF SUSSEX, NEW JERSEY, FOR THE WATER SUPPLY AND DISTRIBUTION SYSTEM AND THE SANITARY SEWERAGE SYSTEM OF THE BOROUGH."

Motion seconded by Mrs. Masson

Mr. Lagattuta asked if this is a BAN we are going to be doing not an actual bond. Mayor Rose stated that yes. Elke says that we need to put the money in place prior to spending any money.

Mayor Rose opened the meeting to the public for any questions or concerns regarding Ordinance #2014-06.

There being no one present who wished to address the Governing Body, Mayor Rose closed the meeting to the public and returned to the regular order of business.

Upon roll call vote:

Ayes: Krynicky, LaBar, Lagattuta, Masson, Stoll

Nays: None

Abstentions: None

Absent: Stendor

Adoption Ordinance #2014-07 – Capital Improvement Fund Ordinance for various improvements and purchases for the Water Treatment Plant and Distribution System and Sanitary Sewer System

Mr. LaBar made a motion to adopt Ordinance #2014-07 entitled "CAPITAL ORDINANCE OF THE BOROUGH OF SUSSEX IN THE COUNTY OF SUSSEX, NEW JERSEY AUTHORIZING VARIOUS IMPROVEMENTS AND PURCHASES FOR THE WATER TREATMENT PLANT AND DISTRIBUTION SYSTEM AND SANITARY SEWER SYSTEM, BY AND FOR THE BOROUGH, APPROPRIATING THEREFORE THE SUM OF \$125,000

AND PROVIDING THAT SUCH SUM SO APPROPRIATED SHALL BE RAISED FROM THE WATER/SEWER CAPITAL IMPROVEMENT FUND OF THE BOROUGH.”

Motion seconded by Mrs. Stoll

Mayor Rose opened the meeting to the public for any questions or concerns regarding Ordinance #2014-07.

There being no one present who wished to address the Governing Body, Mayor Rose closed the meeting to the public and returned to the regular order of business.

Upon roll call vote:

Ayes: Krynicky, LaBar, Lagattuta, Masson, Stoll

Nays: None

Abstentions: None

Absent: Stendor

Introduction Ordinance #2014-08 – Referendum on the Proposed Utility Sale

Mr. LaBar made a motion to introduce Ordinance #2014-08 entitled “AN ORDINANCE OF THE BOROUGH OF SUSSEX, COUNTY OF SUSSEX, AND STATE OF NEW JERSEY REQUIRING A REFERENDUM ON THE PROPOSED SALE OF THE BOROUGH OF SUSSEX WATER AND SEWER UTILITY SYSTEMS.” Motion seconded by Mr. Lagattuta.

Mayor Rose stated Mr. McGovern I had asked you whether this was a binding or non binding referendum.

Mr. McGovern stated that if you read the statute just by itself, the easy question is if it's a no vote, is the no vote binding on you and in my opinion yes it is binding on you. The only way you can go ahead is if there is a yes vote.

Mrs. Masson commented if they vote yes?

Mr. McGovern commented that if they vote yes, well if you read the ordinance on the way it's written it's not written as a mandatory it's written as binding but with that said when you read the specifications that were issued in order to obtain the bid and the timing of that specification it's designed so that you're entering into a contract before the vote is taken and the contract has a condition that the vote has to be an affirmative.

Mrs. Masson stated that she has given this a lot of thought and I have written down some of aspects of it I think we should be looking at and would like to read this if I may. First of all it's my opinion that sending out this RFP was very premature. The condition of the sale is as of the date when they sent in their offer. Now we have many repairs that cannot wait. We are still putting money into the system. We're repairing the infrastructure (pipes and lines), we have the remaining I&I issue, we have the Water Treatment Plant issues and Dam issues and we really cannot wait with this stuff so we're going to be putting more money into this. We should make sure that all of this is covered in the purchase price if that were the way we were to go. We're still responsible for providing these services to our residents and the quality of the water is our responsibility. We need to make a profit if we were to do this after all the debt related issues are paid off. A profit needs to be recognized and that profit needs to be invested to offset the high water sewer rates in this town. It's very difficult, as we all know, to manage this water sewer system with the low number of users we currently have. We are approaching a time when we will be adding more users. We've had experience with an outside company just running our water treatment facility and we're still dealing with the problems that that has caused. We are not for profit. A company that is looking to purchase the water sewer system is for profit. The rates will not go down even if they say they will go down for a couple years they inevitably will have to go up. We will lose control. We were

provided, all of the council people and the mayor with a study, has water privatization gone too far in New Jersey, by one of our residents and this was a study of municipalities who have gone that route and it was very eye opening and it was not very positive. The other big issue, SCMUA, we are still going to be in the middle and we could potentially wind up in a worse situation down the road then we are in today. If a company goes bankrupt or whatever this will revert back to us and we will have more of a problem then we're currently experiencing with the water treatment facility. Again, it's very difficult to manage this system and its very tempting to go the approach of show me the money and wash your hands of this but I don't feel that with all these unresolved issues that we're doing what we were elected to do and it's not in the best interest of the people who are using this system. And I'm not saying that somewhere down the road I couldn't change my mind because if all these issues were resolved, if we were not still in the middle with SCMUA I would feel differently. But I think we have a lot of work still to do before we would consider this. I feel this has been rushed and I just could not go for this.

Mayor Rose spoke about the timing issue. This ordinance does not sell the water system; it simply puts it on the ballot in November.

Mr. McGovern stated that when he spoke to the Clerk's office the deadline for submitting the question to the Clerk's office is August 15th.

Mayor Rose stated so that's why the ordinance is on the agenda this evening because the council needs to consider this at this point.

Mrs. Masson asked why does this have to be done this year?

Mayor Rose stated that the RFP will expire.

Mrs. Masson stated that I don't know why we rushed the RFP out? I don't understand the necessity for that.

Mayor Rose stated that if it is the Council's desire it would be possible to not do anything, to let the RFP die as it is and potentially go out to RFP again next year.

Mr. Lagattuta stated "I feel this is the best thing that could happen to the town and we should move forward".

Mrs. Masson asked and how do you think it is going to affect the users rate wise.

Mr. Lagattuta stated that I don't think anybody could make that determination. If we own it the rates are determined by how much it would cost us to run the plant and its been shown that private companies make their profit not because they are raising the rates but because they can run the system more efficiently and then the difference between their cost of running it and our cost of running ends up being their profit margin.

Discussion ensued regarding the report entitled has water privatization gone too far in New Jersey that was given to the council.

Mr. Lagattuta made a motion to amend the previous motion with the following change to be made to the wording from "the Borough seeks to pursue the sale" to "the Borough is interested in pursuing the sale."

Motion seconded by Mr. LaBar

Upon roll call vote to amend previous motion:

Ayes: Krynicky, LaBar, Lagattuta, Stoll

Nays: Masson

Abstentions: None

Absent: Stendor

Roll call vote for ordinance as amended

Upon roll call vote for ordinance as amended:

Ayes: Krynicky, LaBar, Lagattuta

Nays: Masson

Abstentions: Stoll

Absent: Stendor

Mayor Rose stated that the Final Reading of Ordinance 2014-08 will be held on July 15, 2014.

Resolution 2014-79R – Change Order for Water Operator Contract

Mr. LaBar made a motion to adopt a resolution authorizing the Mayor and Clerk to negotiate a change order to the Agreement for Water Plant and Distribution System Operator with Agra Environmental Services to make emergency repairs.

Motion seconded by Mrs. Krynicky

Upon roll call vote:

Ayes: Krynicky, LaBar, Lagattuta, Masson, Stoll

Nays: None

Abstentions: None

Absent: Stendor

Resolution 2014-80R – Special Council Meeting

Mrs. Stoll made a motion to schedule a Special Meeting of the Mayor and Council of the Borough of Sussex to be held on August 5, 2014 at 7:30 pm, Sussex Municipal Building 2 Main Street, Sussex, NJ 07461 Motion seconded by Mr. Lagattuta.

A discussion ensued about the purpose of this meeting and the use of a trust fund with the money from the possible sale of the water sewer utility.

Mr. Lagattuta made a motion to table Resolution 2014-80R, Special Council Meeting until the July 15, 2014 Regular Meeting of the Mayor and Council.

Motion seconded by Mrs. Stoll.

Upon roll call vote to table the resolution:

Ayes: Krynicky, LaBar, Lagattuta, Masson, Stoll

Nays: None

Abstentions: None

Absent: Stendor

A motion was made by Mr. Lagattuta to authorize the Mayor to enter into a contract with a special attorney for the purposes of researching and reporting to the council and drafting an ordinance creating a trust or a trust like fund for monies that may be received from the sale of the water sewer system. Seconded by Mr. LaBar

Upon roll call vote:

Ayes: Krynicky, LaBar, Lagattuta, Stoll

Nays: Masson

Abstentions: None

Absent: Stendor

OPEN PUBLIC SESSION #2

Mrs. Stoll 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.

Mr. Ed Meyer, 47 Lakeshore Drive Sussex, addressed the Mayor and Council with his concerns about the possible sale of the water sewer utility.

Mr. Justin Burke, 3 Kemah Mecca Lake Road Newton, NJ, addressed the Mayor and Council with his concerns about the sale of Lake Rutherford and the continuance of recreational activities at Lake Rutherford.

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

EXECUTIVE SESSION

In accordance with the provisions of the Open Public Meetings Act, Mr. LaBar made a motion to adjourn into closed executive session to discuss the matter of Bosma sewer arrears along with attorney client privilege information involving negotiation and anticipated litigation. Motion seconded by Mrs. Masson

Upon roll call vote:

Ayes: Krynicky, LaBar, Lagattuta, Masson, Stoll

Nays: None

Abstentions: None

Absent: Stendor

After meeting in closed session, the Governing Body returned to their seats at 9:36p.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 Mrs. Stoll

Upon roll call vote:

Ayes: LaBar, Lagattuta, Masson, Stoll

Nays: None

Abstentions: None

Absent: Stendor, Krynicky

Mayor Rose stated that Mrs. Krynicky left executive session and the meeting at 9:26 pm.

ADJOURNMENT

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

Jonathan Rose, Mayor

Mark Zschack, Municipal Clerk