

Mayor O'Brien stated that before he officially starts the meeting he wants to go over a few things.

He said that the first order of business after attendance is taken will be his appointment of an attorney for 30 days as we now have a vacancy. He said he had a call from the previous attorney Judy Verrone from the DeCotiis, FitzPatrick and Cole firm, stating she had been informed that she did not need to attend tonight's meeting because the majority of the council had selected an attorney, he said that was news to him. This matter will be brought up with the DCA and other State Officials. He had the council polled and found that there were four (4) affirmative votes for the firm of McKenna, DuPont, Higgins & Stone of Red Bank. He said that there was no advertised meeting for public input or discussion.

Councilman Buchanan asked if this discussion should be for the general meeting other than before the meeting begins.

Mayor went on to say that he is going to make the appointment tonight based upon the following law, "the Mayor shall nominate with the advise and consent of the council, appoint all subordinate officers of the borough unless the specific term of the general law clearly require a different appointment procedure. He shall make his nomination to any such office within 30 days of the office becoming vacant". We received our RFQ's between meetings, this is the first official meeting after receiving them. He said further, the McKenna firm has never filed a Business Entity Annual Statement, which must be filed with the "ELEC", so this disqualified them from making a bid for this position and from holding a public contract. The Sayreville RFQ has a certification stating that anyone responding to the RFQ is in compliance with Sayreville's and the State Pay to Play. The McKenna firm is not in compliance. I am going to appoint Mr. Brian Nelson, he is the Borough Attorney for Middletown, NJ, he is of the firm Menna, Supco and Nelson, LLC, Red Bank, NJ, for the 30 days while the review process is gone through. He then called the meeting to order.

CALL TO ORDER

Regular meeting of the Mayor and Borough Council held on Monday, February 14, 2011, in the Borough Hall, 167 Main Street, Sayreville, was called to order by Mayor O'Brien at **6:34 P.M.** followed by a short prayer and salute to the flag.

STATEMENT OF NOTICE OF PUBLICATION

Clerk Farbaniec announced that this meeting of the Mayor and Council, has been advertised and posted in accordance with Open Public Meetings Act Chapter 231, P.L. 1975 by advertising in the Home News Tribune, notifying the Star Ledger and the Sentinel Publishing Co., posting on the bulletin board, and filing with the Municipal Clerk.

ROLL CALL

Mayor stated for the record that Council President Ken Kelly, will be leaving early to attend a wake of a fellow veteran as past commander as well as other past commanders to pay tribute and homage to a fellow veteran.

Roll Call: Councilpersons Bella, Buchanan, Eicher, Henry, Kelly, Perrette.

Absent: None.

Others Present: Mayor O'Brien
Business Admin. Bertrand
C.F.O. Kronowski
Municipal Clerk Farbaniec
Engineer Cornell

Others Absent: None

Mayor said that as his first order of business is the 30 day appointment of Brian Nelson as borough attorney. He asked for a second.

Council President Ken Kelly seconded the motion.

Roll Call:	Ayes	Nays
Councilpersons Bella,		X
Buchanan,	X	
Eicher,	X	
Henry		X
Kelly	X	
Perrette	X	

Clerk Farbaniec announced 2 Ayes, 4 Nays, motion fails.

Councilman Henry made a Motion to appoint the law firm of McKenna, DuPont, Higgins and Stone as General Counsel.

Mayor said there is the conflict, he as Mayor can no longer have this meeting open as we do not have an attorney present as is the law under State Statute, so I declare the meeting closed.

After the Mayor declared the meeting closed, Councilman Bella, said that there was a motion made that he seconded.

Mayor states that there is no meeting, we have no attorney.

Councilmen Bella, Buchanan and Henry called for a Roll Call on the motion.

Mayor said that the meeting is closed.

Mayor O'Brien, Councilman Kelly and Perrette left the meeting.

Time 6:37 PM

Councilman Bella said there is a motion on the floor to appoint an attorney, McKenna, DuPont, Higgins and Stone on a motion made by Councilman Henry and seconded by himself and asked for a roll call.

Municipal Clerk said that at this point she needs some advice as the Mayor closed the meeting.

Scattered discussion from dais and public.

Councilman Bella said that there is a quorum and the council will run the meeting and asked for a roll call.

Municipal Clerk Farbaniec stated that she shows that there are four councilpersons present. The Mayor declared the meeting closed and she is being put on the spot. The Mayor declared the meeting closed due to there not being an attorney present, and there is not an attorney present at this time, and the council is requesting her to take a roll call she advised that she wasn't sure legally what the outcome would be.

Councilman Bella asked if the Mayor declared the meeting closed before or after the motion was made.

Clerk responded that a motion was made by Co. Henry to appoint the firm of McKenna, DuPont, Higgins & Stone then the Mayor declared the meeting closed. She said according to her record, the motion was seconded after the Mayor closed the meeting.

Councilman Henry agreed that the second to the motion was made after the meeting was closed. He further stated that there are four council members present which constitutes a quorum and there is a motion on the floor and believes that a roll call should be taken on the motion to appoint the attorney.

Discussion followed regarding the tenured council member running the meeting as council president pro tempore and there being the need to re-open the meeting once again.

Councilwoman Eicher called the meeting to order at 6:45 PM

Roll Call: Councilpersons Bella, Buchanan, Eicher, Henry.

Absent: Mayor O'Brien, Councilpersons Kelly & Perrette.

Others Present: Borough Business Administrator Jeff Bertrand
C.F.O./Treasurer Wayne A. Kronowski
Municipal Clerk Farbaniec
Engineer Jay Cornell

Clerk Farbaniec announced that there were four (4) council persons present and this constitutes a quorum.

Councilwoman Eicher said for the record, that for two years she has sat up there, not being told anything that was happening and was told to suck it up because that is how it goes in politics. She said she never got up and walked out because she didn't like what was going on, they had it all planned out and finds it appalling.

She said the council has a quorum of four people and will continue the meeting.

Acting Council President Eicher said that there is a motion on the floor that was seconded for the appointment of an attorney. Before this continued, she said the Mayor accused the attorney of not filing some form that was required and asked the attorney to come forward clarify this issue.

Michael DuPont from the firm of McKenna, DuPont, Higgins & Stone, located at 229 Broad Street, Red Bank, NJ. He said the question was if a Business Entity Disclosure Certification was filed. He said it was included in the package that was hand delivered to Sayreville before the expiration of the deadline and knew that the Certification was filed as he reviewed the package before giving it to the courier to be hand delivered.

Clerk said that with the confusion earlier, she asked for the motion to be made again.

Acting Council President Eicher called for the motion.

Councilman Henry made a motion to appoint the law firm of McKenna, DuPont, Higgins & Stone and General Counsel. Motion was seconded by Councilman Bella.

Before the vote each councilmember made comments as to what happened earlier in the meeting, apologizing to the residents and highlighting the savings this firm would pass on to the borough.

Roll Call: Councilpersons Bella, Buchanan, Eicher, Henry, all Ayes.

Councilman Buchanan made the comment that the vacancy for this position occurred on January 1st not February 1st so the 30 days had expired.

Attorney Michael DuPont jointed the council at the dais and thanked everyone present for the support.

ACTION ITEMS:**APPROVAL OF MINUTES OF THE MAYOR AND COUNCIL**

Acting Council President called for a motion to approve the Minutes of the Mayor and Council.

Councilman Buchanan made a motion to approve the following Minutes of the Mayor and Council, subject to correction if necessary.

☒	January 1, 2011	-	Organization Meeting
☒	January 10, 2011	-	Agenda Meeting
☒	January 24, 2011	-	Regular Meeting
☒	January 24, 2011	-	Agenda Meeting

Seconded by Councilman Bella.

Roll Call: Councilpersons Bella, Buchanan, Eicher, Henry, all Ayes.

COMMUNICATIONS & REPORTS OF COMMITTEE

Acting Council President Eicher moved the Consent Agenda Communications be received on Roll Call Vote.

Seconded by Councilman Buchanan.

Roll Call: Councilpersons Bella, Buchanan, Eicher, Henry, all Ayes.

COMMUNICATIONS (reviewed on Jan. 24, 2011 Agenda Meeting).

- **ADMINISTRATION & FINANCE** – Co. Perrette

#1 APPLICATION FOR SPECIAL PERMIT FOR SOCIAL AFFAIR

Received from St. Stanislaus Kostka Church/HSA to hold a Mardi Gras Dinner Dance, St. Stanislaus Kostka School, 221 MacArthur Ave., Sayreville on March 4, 2011 from 5PM-Midnight. - a) Approved

#2 STATE DIVISION OF ALCOHOLIC BEVERAGE CONTROL

Due to the non renewal of P.R.C.L. #1219-33-036-004, Ben's Tavern, Inc. for the license terms 2009/2010 and 2010/2011, this license has lapsed and ceases to exist and removed from record. A Resolution needs to be prepared to effectuate this action.
- Resolution

#3 DONNA M. BRODZINSKI, TAX COLLECTOR

a) Requesting the adoption of a Fee Ordinance to cover the cost of mailing any Tax Sale Notice (Regular and/or Certified mail) to any interested party not to exceed \$25.00. (N.J.S.A. 54:5-26). - a) Ordinance

REPORT OF CHAIR.

#4

- **PLANNING & ZONING** – Co. Henry

REPORT OF CHAIR.

- PUBLIC SAFETY – Co. Bella

#5 REQUEST FOR COIN TOSS

Received from:

- a) Knights of Columbus Council No. 2061 to solicit funds at the intersection of Washington Road and Ernston Road on April 2 & 3, 2011.
 - a) Approve
 (County approval received)
- b) Sayreville Band Parents Association to solicit funds at the intersection of Washington Road and Ernston Road on March 12 & 13 AND April 9 & 10, 2011. (Need county approval).
 - b) Approved granted for 1 weekend.

REPORT OF CHAIR.

#6 MORGAN HOSE & CHEMICAL CO. NO. 1

Received from transfer of membership from Mark Hurly from Morgan Hose & Chemical Co. #1 to President Park Fire Co. - Receive & File

- PUBLIC WORKS – Co. Buchanan

#7 JOHN E. DROZD, JR.

Request for refund of fees for Road Opening Permit issued for 106 Merritt Avenue, South Amboy and waiver for Maintenance Bond Requirement since the permit was issued on 2/5/10.

(Requires a resolution) - Resolution.

REPORT OF CHAIR.

#8

- RECREATION – Co. Eicher

REPORT OF CHAIR.

#9

- WATER & SEWER – Co. Kelly

REPORT OF CHAIR.

#10

- MAYOR O'BRIEN

#11

- BUSINESS ADMINISTRATOR'S AGENDA/REPORT

Administration & Finance:

- a. Report on the status of the Park & Ride including the necessity to replace the existing pay-on-foot Parking meters due to inoperability and inefficiencies.
- b. Report on the current Borough-wide phone system replacement project that will result in operational and budgetary savings.

Public Works:

- a. For informational purposes, the Borough has been notified by PSE&G regarding an application to the DEP for wetlands encroachment for the maintenance of their natural gas distribution mains.

Recreation: none

Water & Sewer: none

Public Safety: none

Planning & Zoning: none

Personnel:

- a. Police Department – Request for a 3-month unpaid leave of absence due to illness
- Approved

#12

➤ C.F.O. WAYNE A. KRONOWSKI

1. Transfer Resolution
2. Bill Resolution
3. Budget Workshop Meeting
4. Financial Advisor for Redevelopment Pilot review.
Resolution required.

#13

➤ BOROUGH ATTORNEY AGENDA/REPORT

#14

➤ BOROUGH ENGINEER AGENDA/REPORT

1. Ernston Road / Bordentown Avenue Intersection Improvements – Status of Project.

FOR YOUR INFORMATION

- ADMIN. & FINANCE
- PLANNING & ZONING
- PUBLIC WORKS
- ENVIRONMENTAL
- PUBLIC SAFETY

TOWNSHIP OF EDISON

Received copy of resolution from the Twp. of Edison adopting the Middlesex County Multi-jurisdictional All Hazards Mitigation Plan. - Receive & File.

- RECREATION

<u>MINUTES</u>	<u>Rec. & File</u>
Environmental Commission -	December 7, 2010
Board of Health -	December 2, 2010
Sayreville Planning Board -	December 1, 2010
Middlesex County Planning Board -	December 14, 2010
Shade Tree Commission -	December 16, 2010

- **Consent Agenda Resolutions**

Acting Council President Eicher opened the meeting to the Public for questions or comments on Consent Agenda Resolutions.

Those appearing were:

- ❖ Barbara Kilcomons, 22 Schmitt St.
Questioned Resolution #2011-44 and the cost of the Financial Advisor. Response by CFO Kronowski that the firm needs to be selected and the money would be coming out of an escrow funded by Sayreville Seaport.

Councilman Buchanan said that the following firms responded:

- Benecke Economics, Moonachie, NJ at an hourly rate of \$125; Acacia Financial, Marlton, NJ, at an hourly rate ranging from \$150 to \$185; and
- Phoenix Advisors, Bordentown, NJ, at an hourly rate ranging from \$100 to \$195; and

She then questioned Resolution #2011-48 awarding contract to Mitel Networks, Inc. for the purchase of a borough telephone and voice mail system and if we went out to bid for this contract.

Business Admin. Bertrand said that quotes were taken from three State Contracted Vendors and explained why we were awarding Mitel Networks.

She questioned Resolution #2011-50, executing a contract with Metric Parking for the purchase of parking meters for the borough park and ride facility and what that cost was.

Response by Business Admin. that the current meters have been out of order and need to be replaced, the cost of two new ones is \$17,000.

Councilman Buchanan asked if the Council would like to discuss the appointment of the Financial Advisor for the resolution before closing the public portion.

Acting Council President Eicher made a motion to appoint the Phoenix Advisors, LLC to serve as the Financial Advisor Services company to serve and the assist with the assessing of economic impact of the proposed financial agreement relative to Sayreville Seaport Redevelopment Project. Motion seconded by Councilman Buchanan.

Roll Call: Councilpersons Bella, Buchanan, Eicher, Henry, all Ayes.

Acting Council President Eicher asked if there were any other questions or comments on the selection of the Phoenix firm .

None made.

Councilman Buchanan made a motion to close the Public Hearing and approve the Consent Agenda Resolutions on Roll Call Vote. Seconded by Councilman Bella.

Roll Call: Councilpersons Bella, Buchanan, Eicher, Henry, Perrette, all Ayes.

RESOLUTION 2011-44

WHEREAS, the Mayor and Borough Council of the Borough of Sayreville are knowledgeable that the Borough requires the services of an Financial Advisor to among other things, assess the economic impact to the Borough with respect to Redevelopment of the NL Industries Site and of the anticipated financial agreements related thereto; and

WHEREAS, the services are professional services exempt from bidding pursuant to N.J.S.A. 40A:11-5(1)(a)(i); and

WHEREAS, the Borough received three proposals as follows:

- Benecke Economics, Moonachie, NJ at an hourly rate of \$125;
- Acacia Financial, Marlton, NJ, at an hourly rate ranging from \$150 to \$185; and
- Phoenix Advisors, Bordentown, NJ, at an hourly rate ranging from \$100 to \$195; and

WHEREAS, the Laws of New Jersey provide for such professional requires that the resolution authorizing such services without competitive; and

WHEREAS, funds are available for this purpose;

NOW, THEREFORE, BE IT AND IT IS HEREBY RESOLVED by the Borough Council of the Borough of Sayreville as follows;

1. Phoenix Advisors, Bordentown, NJ, is hereby appointed to provide Financial Advisor Services as described in the first paragraph of this resolution.
2. This appointment is made without competitive bidding as a "professional service" under the provisions of N.J.S.A. 40A11-1, et seq.
3. That a copy of this resolution shall be kept on file with the Borough Clerk.
4. That a copy of this, certified copy be a true copy by the Borough Clerk, shall be published as required by law within ten (10) days from the date of adoption.

BE IT AND IT IS HEREBY RESOLVED that the Borough Clerk be and is hereby authorized to forward a true copy of this resolution to Phoenix Advisors, Bordentown, NJ.

/s/ William Henry, Councilman
(Admin. & Finance Committee)

ATTEST: **BOROUGH OF SAYREVILLE**

/s/ Theresa A. Farbaniec
Municipal Clerk

/s/ Lisa Eicher,
Council President
Pro Tempore

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RESOLUTION #2011-45

WHEREAS, on February 5, 2010 Road Opening Permit #5135 was issued to open 106 Merritt Avenue, Sayreville; and

WHEREAS, the Road Department has advised that the road has been restored to original condition and has recommended that a refund of a portion of said permit fee be made;

NOW, THEREFORE, BE IT RESOLVED that the proper Borough Officials are hereby authorized and directed to refund the sum of \$180.00 for the afore-mentioned Road Opening Permit to Michael Drozd, Jr., upon the submission of a properly approved borough voucher.

BE IT FURTHER RESOLVED that the Maintenance Bond requirement is hereby waived due to the fact that the fees have been held for one year in lieu of posting the required Maintenance Bond.

/s/ Daniel Buchanan,

Councilman

(Public Works Committee)

ATTEST: **BOROUGH OF SAYREVILLE:**

/s/ Theresa A. Farbaniec
Municipal Clerk

/s/ Lisa Eicher, Council President
Pro Tempore

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RESOLUTION #2011-46

BE IT AND IT IS HEREBY RESOLVED that the following transfers between 2010 Budget Appropriation Reserves be and the same are hereby authorized to be made in the following manner to wit:

	<u>FROM</u>	<u>TO</u>
<u>CURRENT FUND</u>		
Municipal Clerk (1120-101-1-1001)	\$ 20,000	\$
Financial Administration (1130-110-2-2020)	10,000	
Legal Services (1155-130-2-3110)	50,000	
Group Insurance Plans (1220-205-2-8010)	60,000	
Police Department (1240-310-1-1003)	51,300	
Road Rep.& Maintenance (1290-401-1-1002)	10,000	
(1290-401-2-15011)	20,000	
(1290-401-2-15040)	10,000	
Garbage & Trash Removal (1305-501-1-1002)	10,000	
(1305-501-1-1302)	10,000	
Vehicular Maintenance (1315-550-1-1302)	10,000	
(1315-550-2-18401)	10,000	
(1315-550-2-18501)	20,000	
Recreation (1370-701-1-1402)		3,000
M.C.U.A. Contract (2455-520-2-16060)	_____	<u>288,300</u>
	<u>\$ 291,300</u>	<u>\$ 291,300</u>

/s/ William Henry, Councilman
(Admin. & Finance Committee)

ATTEST: _____

BOROUGH OF SAYREVILLE: _____

/s/ Theresa A. Farbaniec
Municipal Clerk

/s/ Lisa Eicher, Council President
Pro Tempore

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RESOLUTION #2011-47

WHEREAS, all bills submitted to the Borough of Sayreville covering services, work, labor and material furnished the Borough of Sayreville have been duly audited by the appropriate committee;

NOW, THEREFORE, BE IT AND IT IS HEREBY RESOLVED:

That all bills properly verified according to law and properly audited by the appropriate committees be and the same are hereby ordered to be paid by the appropriate Borough officials.

Absent
Mayor

/s/ Councilman Frank J. Bella

/s/ Councilman William J. Henry

/s/ Councilman Daniel Buchanan

Absent
Councilman Kenneth P. Kelly, Sr.

/s/ Councilwoman Lisa Eicher

Absent
Councilman Nicholas J. Perrette

**Bill list of February 14, 2011, in the amount of \$13,752,438.09
(Bill List - See Appendix 2011-A for this date, in a separate Bill List File for 2011)**

RESOLUTION #2011-48

BE IT RESOLVED that the proper Borough officials are hereby authorized and directed to execute a contract with MITEL Networks, Inc., 7300 West Boston Street, Chandler, AZ 85226 to purchase, a Borough-Wide Telephone and Voice Mail System through State Contract #A42300, at a total cost not to exceed \$248,919.63.

/s/ William Henry, Councilman
(Admin. & Finance Committee)

ATTEST:

BOROUGH OF SAYREVILLE;

/s/ Theresa A. Farbaniec
Municipal Clerk

/s/ Lisa Eicher, Council President
Pro Tempore

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RESOLUTION #2011-49

BE IT RESOLVED that the proper Borough officials are hereby authorized and directed to execute a Direct Install Program Participation Agreement with Tri-State Lighting and Energy a participating contractor with the Board of Public Utilities, New Jersey's Clean Energy Program in connection with the installation of energy efficient retrofit measures performed by the participating contractor.

/s/ William Henry, Councilman
(Admin. & Finance Committee)

ATTEST:

BOROUGH OF SAYREVILLE;

/s/ Theresa A. Farbaniec
Municipal Clerk

/s/ Lisa Eicher, Council President
Pro Tempore

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RESOLUTION #2011-50

BE IT RESOLVED that the proper Borough officials are hereby authorized and directed to execute a contract with METRIC Parking, Metric Group, Inc., 2540 Route 130, Cranbury, NJ 08512 for the purchase of two (2) AURA pay stations and the cost of two (2) wireless GPRS modem and remote monitoring systems, at a total cost not to exceed \$18,196.00.

/s/ William Henry, Councilman
(Admin. & Finance Committee)

ATTEST: **BOROUGH OF SAYREVILLE;**

/s/ Theresa A. Farbaniec
Municipal Clerk

/s/ Lisa Eicher, Council President
Pro Tempore

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Resolutions to be read in full - None

Councilman Bella made a motion to appoint Bill Lane from the firm of Johnstone, Skok, Loughlin & Lane as attorney for Litigation and Special Conflict.

Seconded by Councilman Henry.

Roll Call: Councilpersons Bella, Buchanan, Eicher, Henry, all Ayes.

Councilman Buchanan made a motion to appoint Vlasac & Shmaruk, LLC as joint attorney for Litigation and Special Conflict.

Seconded by Councilman Henry.

Roll Call: Councilpersons Bella, Buchanan, Eicher, Henry, all Ayes.

Councilman Buchanan made a motion to appoint Wiss & Company, LLP to serve as Municipal Auditor. Seconded by Councilman Henry.

Roll Call: Councilpersons Buchanan, Eicher, Henry, all Ayes.
Councilpersons Bella, Nay;

Councilman Buchanan made a motion to appoint James P. Nolan & Assoc. as Tax Counsel. Seconded by Councilman Bella.

Roll Call: Councilpersons Bella, Buchanan, Eicher, Henry, all Ayes.

Councilman Bella made a motion to appoint the members of the Zoning Review Committee.

Attorney Michael DuPont stated that these were Mayoral appointments.

Public Hearing on Ordinance(s):

Acting Council President Eicher opened the meeting to the Public for questions or comments on Ordinance #155-11.

No open appeared.

Councilman Henry moved the Public Hearing be closed, the Ordinance #155-11 be adopted on second and final reading and advertised according to law. Seconded by Councilman Henry.

Roll Call: Councilpersons Bella, Buchanan, Eicher, Henry, all Ayes.

ORDINANCE # 155-11
**AN ORDINANCE AUTHORIZING THE SALE OF
CERTAIN REAL PROPERTY, DESIGNATED AS
BLOCK 457, LOTS 46 AND 47, AT PRIVATE SALE TO
THE HIGHEST BIDDER FROM AMONG THE OWNERS
OF REAL PROPERTY ONTIGUOUS TO EITHER LOT, OR,
IN THE ALTERNATE, OFFERING THE PROPERTIES
FOR PUBLIC SALE TO THE HIGHEST BIDDER.**

Co. Perrette, Admin. & Finance Committee - Public Hearing February 14, 2011

WHEREAS, the Borough of Sayreville is the owner of real property identified as Block 457, Lots 46 and 47, on the Tax Map of the Borough of Sayreville (hereinafter collectively the "Properties"); and

WHEREAS, the Properties are vacant land and remain unused by the Borough; and

WHEREAS, the properties are not needed for any purpose by the Borough of Sayreville; and

WHEREAS, N.J.S.A. 40A:12-13(a) authorizes a municipality to sell real property owned by the Borough not needed for public use to a private person, if such sale is made to the highest bidder following public auction or the receipt of sealed bids; and

WHEREAS, N.J.S.A. 40A:12-13(b)(5) permits a municipality to sell real property not needed for public use to an owner of real property contiguous to the municipally owned property by private sale for not less than the fair market value of the real property, where such property is less than the minimum size required for development under the municipal zoning ordinance and is without any capital improvement thereon; and

WHEREAS, N.J.S.A. 40A:12-13(b)(5) requires that, when there is more than one owner of real property contiguous to the municipally owned property, the property be sold to the highest bidder from among such owners; and

WHEREAS, Lot 46 and Lot 47 are each less than the minimum size required for development under the municipal zoning ordinance and without any capital improvement thereon; and

WHEREAS, the Borough has determined to sell the Properties together to one purchaser; and

WHEREAS, the Borough has determined that the fair market value of the Properties is Four Thousand, Five Hundred Dollars (\$4,500); and

WHEREAS, the Borough expended the sum of One Thousand, Seven Hundred, and Fifty dollars (\$1,750) on the appraisal of the Properties, which sum the Borough seeks to recoup through the sale of the Properties; and

NOW, THEREFORE, BE IT ORDAINED, by the Mayor and Council of the Borough of Sayreville, County of Middlesex and State of New Jersey, being the governing body thereof, as follows:

SECTION 1. Sale to Adjacent Property Owners Authorized.

Sale by the Borough of the Properties by private sale to the highest bidder from among the owners of real property contiguous to the Properties, pursuant to N.J.S.A. 40A:12-13(b)(5) is hereby authorized for a sum of not less than Four Thousand, Five Hundred Dollars (\$4,500) plus the payment of One Thousand, Seven Hundred and Fifty Dollars (\$1,750) to cover the cost of appraising the Properties, for a total minimum bid of Six Thousand, Two Hundred and Fifty Dollars (\$6,250), subject to the conditions set forth in Section 2 of this Ordinance.

SECTION 2. Sale Following Public Bid Authorized.

In the alternative, or if sale to the adjacent property owners is unsuccessful, or if any offers to purchase the Properties for sums greater than the minimum bid set forth in this Ordinance are received in accordance N.J.S.A. 40A:12-13(b), sale of the Properties in fee simple by public bid to the highest bidder pursuant to N.J.S.A. 40A:12-13(a) is hereby authorized for a sum of not less than Four Thousand, Five Hundred Dollars (\$4,500) plus the payment of One Thousand, Seven Hundred and Fifty Dollars (\$1,750) to cover the cost of appraising the Properties, for a total minimum bid of Six Thousand, Two Hundred and Fifty Dollars (\$6,250), subject to the conditions set forth in Section 2 of this Ordinance.

SECTION 3. Conditions of Sale.

- A. Bidders are advised to conduct their due diligence prior to bidding. The Borough makes no representations as to the quality or marketability of its title to the Properties, and shall not be liable for any costs, fees, expenses, labor or time required to quiet title. The Borough will deliver a quitclaim deed to the purchaser in full satisfaction of the Borough's obligations.
- B. The sale of the Properties shall be subject to imposition of deed restrictions prohibiting any and all new improvements on the Properties and prohibiting further subdivision of the Properties.
- C. The purchaser shall bear all costs involved in the sale of the Properties, including the Borough's attorney's fees incurred in the negotiation and execution of the sale, and resolution of any issues that may arise between the acceptance of a bid for purchase of the property and the conclusion of the closing, and all closing costs incurred by the Borough.
- D. The Borough has not utilized the services of a real estate broker, and shall not be responsible for any portion of any commission alleged to be due any real estate broker or authorized representative. All such costs shall be born exclusively by the purchaser.
- E. The Properties shall be sold as is, and the Borough shall accept no responsibility or liability for any costs or expenses resulting from any latent or patent conditions of the Properties. Bidders are advised to conduct their due diligence prior to bidding.
- F. The Borough reserves the right to reject all bids where the highest bid is not accepted or as may be in the best interest of the Borough.
- G. If the successful bidder does not execute a contract of sale with the Borough within thirty (30) days following presentation of the contract for execution, the bidder's deposit shall be forfeited. Closing shall be scheduled for no later than ninety (90) days from the execution of a contract of sale.
- H. All bids pursuant to N.J.S.A. 40A:12-13(a) must be accompanied by cash or certified check payable to the Borough in the amount of ten (10%) percent of the amount bid.
- I. The sale shall be subject to the final approval of the governing body.

SECTION 4. Authorization to Take Steps Necessary to Effectuate Sale.

The Borough Clerk, Borough Administrator, Mayor, and Borough Attorney are hereby authorized to take all steps necessary, and sign all documents required, to effectuate the sale of the Properties in accordance with the terms and conditions of this Ordinance. Any advertisement for bids shall list all the Conditions of Sale set forth above.

SECTION 5. Severability Clause.

If any article, section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance and they shall remain in full force and effect, and to this end the provisions of this ordinance are hereby declared severable.

SECTION 6. Repealer.

All other ordinances in conflict or inconsistent with this ordinance are hereby repealed, to the extent of such conflict or inconsistency. In the event of any inconsistencies between the provisions of this Ordinance and any prior ordinance of the Borough, the provisions hereof shall be determined to govern. All other parts, portions and provisions of the Ordinances of the Borough are hereby ratified and confirmed, except where inconsistent with the terms hereof.

SECTION 7. Effective Date.

This ordinance shall take effect immediately upon adoption and publication in accordance with the laws of the State of New Jersey.

/s/ Nicholas J. Perrette, Councilman
(Admin. & Finance Committee)

ATTEST: _____ BOROUGH OF SAYREVILLE;

/s/ Theresa A. Farbaniec /s/ Lisa Eicher, Council President
Municipal Clerk Pro Tempore

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APPROVED AS TO FORM:

Michael DuPont, Borough Attorney

Introduction on Ordinance(s):

ORDINANCE #156-11
AN ORDINANCE AMENDING AND SUPPLEMENTING
SECTION 8-14 OF THE REVISED GENERAL ORDINANCES
OF THE BOROUGH OF SAYREVILLE TO REVISE THE FEES
FOR WRECKER SERVICES AND STORAGE FEES
(Co. Bella, Public Safety Committee - Public Hearing February 28, 2011)

Councilman Bella moved Ordinance #156-11 be approved on first reading, advertised according to law and a Public Hearing be held on February 28, 2011.

Seconded by Councilman Buchanan.

Roll Call: Councilpersons Bella, Buchanan, Eicher, Henry, all Ayes.

PUBLIC PORTION

Acting Council President Eicher opened the meeting to the Public for any and all questions or comments.

Those appearing were:

- John Rucki, Hendricks Ct.
Questioned why it was necessary to appoint two (2) attorneys for Litigation and Special Conflict and who would be making that decision.

Councilman Buchanan responded for a long time one attorney/firm was handling litigation and now they were looking to split the responsibilities or cases.

Councilman Bella stated that the overall objective was to save the borough money and a decision would be made by the council, with by-partisan cooperation, on which firm would handle what.

Mr. Rucki then welcomed the new borough attorney and asked him if the tax payers of Sayreville would be contributing to his pension fund.

Mr. DuPont responded that he would instruct Sayreville's CFO not to make any contributions to a pension fund on his behalf as it is his belief that there was legislation passed regarding annual appointments and contributions into the pension fund.

CFO Kronowski concurred that it is prohibited.

Councilman Bella asked the CFO about special codes used for attorneys and what they meant.

C.F.O. Kronowski said that there are codes representing misc matters, retainers, litigation and ABC matters.

He also welcomed Mr. Lane back.

- Theresa Strek, 140 McCutcheon Ave.
Commented on the things that took place at tonight's meeting, wondering if what took place was legal.

Response by Attorney Michael DuPont.

Councilman Bella commented on the actions they took here tonight.

- Ken Olchaskey, 108 No. Edward St.
Commented on his involvement with politics over the course of many years and that with our form of government, the Mayor and Borough Council form, the Mayor has appointing powers for the first 30 days then it becomes the responsibility of the council to make appointments and has nothing to do with RFP's that were advertised.

He further commented on the amount of money being saved by appointing this new firm.

He thanked the council for looking after their taxes.

- Bob Kominkiewicz, 103 Ernston Road
Asked Clerk to read a paragraph from an informational flyer he received in October, 2000 regarding the Ernston Road/Bordentown Avenue Improvements that began in 1990. He said this proves how long he has been complaining about this bridge.

He commended the girls working in the Tax Department.

He asked what the hold-up was regarding the redevelopment of Kozy Bar (Rt. 35 Redevelopment).

Councilman Buchanan explained that SERA wanted the Council to move forward with demolishing the building and building 105 units on the property, along with knocking down the bungalows behind the restaurant. He said the planning board is opposed to that plan. The two groups are supposed to meet along with the developer and come up with a resolution and bring it before the council. They will have to make the determination if the council will move forward with the project.

Councilman Buchanan said that everyone could benefit from this improvement.

Councilman Henry added that right now that area is age restricted and the developer, American Properties wanted to put 86 or 89 market value homes and the other few would be rentals for senior citizens. The council needs to determine if we can change the zoning from age restricted to market value. That was the issue the planning board has, they do not want any more children and do we change the age restriction on that. He explained that the developer believes there will only be around 15 children because of the one and two bedroom units. He said the planning board and SERA are going to have their meeting on the 23rd and he will be reporting back to the council at the next meeting on the outcome.

- Barbara Kilcomons, 22 Schmitt St.
Asked where we purchase our salt from and if we use shared services.

Business Admin. Bertrand responded that we take advantage of whoever is the cheapest, County Common Sense, State Contract and our bid. Right now we are using County Common Sense.

Mrs. Kilcomons said the top of the fire hydrants are painted white and are not visible in the snow and questioned what the procedure was for digging them out of the snow.

Business Admin. explained the procedure.

Mrs. Kilcomons then questioned fire companies being paid for stand by and who is required to shovel sidewalks.

Business Admin. explained that there is an ordinance requiring the fire departments to be on stand-by during heavy snow storms along with an ordinance for snow removal from sidewalks.

- Robert Kominkiewicz, 103 Ernston Road
Said the banks should be responsible for the snow removal from sidewalks in front of the homes that are in foreclosure and if they don't they should be fined.
- Bill Lane
Commented that he appreciates the opportunity to represent the council in the area of litigation and special counsel.

No further questions or comments.

Councilman Bella moved to close the Public Portion. Seconded by Councilman Buchanan.

Roll Call: Councilpersons Bella, Buchanan, Eicher, Henry, all Ayes.

EXECUTIVE SESSION ITEMS - (None)

ADJOURNMENT

No further business.

Councilman Buchanan made a motion to adjourn. Seconded by Councilman Bella.

Roll Call: Councilpersons Bella, Buchanan, Eicher, Henry, all Ayes.

Time: 7:45 PM

SIGNED:

Theresa A. Farbaniec, Municipal Clerk

3/28/11
Date

FEBRUARY 14, 2011

REGULAR MEETING

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