

BOROUGH OF WATCHUNG

MINUTES

FEBRUARY 12, 2004

MAYOR'S STATEMENT: Mayor Ellis called the meeting to order at 7:35 PM and made the following statement: Under the provisions of N.J.S.A. 10:4-6 et seq., notice of the time and place of this meeting was given by way of annual notice to the Courier News, Echoes Sentinel, Messenger-Gazette and Star Ledger, and posted at Borough Hall.

SALUTE TO THE FLAG and SILENT PRAYER

ROLL CALL

Black [P] Franklin [P] Otto [P] Mobus [P] Joren [A] Harding [P]

PUBLIC HEARING

Assessment Commission Report and recommendation for Valley Drive Road Reconstruction Project

Councilman Black made a motion to open the Public Hearing on the Valley Drive Road Reconstruction Project Assessment Commission Report. It was seconded by Councilman Franklin and upon roll call unanimously carried.

Mayor Ellis turned the meeting over to Borough Attorney Albert Cruz who gave a synopsis of the events leading to tonight's meeting, as follows:

On January 22, 2004, the Valley Drive Assessment Commission issued its Final Report.

On that same date, Notice of a Public Hearing and the Final Report were sent to each of the affected property owners by certified mail

That Public Hearing is tonight.

N.J.S.A. 40:56-30, the applicable statute regarding these proceedings, states in part that

The notice shall briefly state the object of the meeting with reference to the assessment. At that or any subsequent meeting the governing body after considering the report and map may adopt and confirm the same with or without alterations, as to them may seem proper, and may refer the matter to any committee of its own body, or to the officer or board making such assessment, for revision or correction before taking final action upon it.

The record before the Assessment Commission included.

- 1 Two (2) loose-leaf binders with twenty-six (26) exhibits the Assessment Commission received during its own Public Hearings, and one (1) loose-leaf binder with the Cost Report for the Valley Drive Reconstruction; and*
- 2 Transcripts of the Public Hearing held on August 4, October 27 and November 24, 2003*

Since the filing of the Final Report, Robert S. Raymar, Esq., counsel for certain affected property owners, submitted several documents:

- 1 Letter from Mr. Raymar to me, dated January 30, 2004, along with a letter from the County of Union Department of Engineering & Public Works, dated January 28, 2004,*
- 2 Letter from Mr. Raymar to Laureen B. Fellin, dated February 6, 2004, and*
- 3 Letter from Mr. Raymar to the Mayor and Council, dated February 6, 2004, along with a letter from Edward G. Kinal, dated February 5, 2004*

These materials are before you but were not before the Assessment Commission.

Because you have each had an opportunity to review the Final Report and Mr. Raymar's submissions and that Report has been sent to the affected property owners, I suggest that you first hear from the affected property owners and Mr. Raymar, then open the Public Hearing to other members of the public.

Also present are two (2) members of the Assessment Commission, Mary Ciccolella and Donald Pote, and the Borough's appraisal consultant, Mark Tinder, and Borough Engineer, Richard W Moody, P E

As the statute states, you have to decide whether to:

- 1 Accept the assessments as recommended by the Assessment Commission,*
- 2 Modify the assessments and impose an assessment determined by you, or*
- 3 Reject the assessments and return this matter to the Assessment Commission or your own Committee.*

As you know, this matter was remanded by the Superior Court of New Jersey to the Assessment Commission and the reassessment must be completed by February 15, 2004. However, Mr Raymar, advised that if additional time is required, a short extension will be granted.

The reassessment is graphically described on pages 23A, 23B and 23C of the Final Report.

The primary reason for the remand was that the prior Assessment Commission did not find that the Valley Drive reconstruction resulted in increased property values. That determination is now graphically found in Columns D and E on pages 23A and 23B of the Final Report.

The prior assessment, as of June 7, 2001, is shown in Column I, and the reassessment, as of January 20, 2004, is shown in Column J.

The assessment for each affected property owner has been reduced from the June 7, 2001 assessment because this Assessment Commission found that the Valley Drive reconstruction resulted in added traffic to Valley Drive that was not generated by the Valley Drive neighborhood. That regional traffic is 6.87% of the total traffic on Valley Drive. Based upon this determination, the Assessment Commission recommended that the Borough assume that percentage as a portion of its share of the project costs.

Council Member Michael Harding should recuse himself because his parents are among the affected property owners and I ask that the Mayor and Council excuse his participation.

Mr. Mayor, I recommend you request a motion to recuse Mr. Harding and then proceed to open this portion of the meeting for the purposes I have described.

Councilman Mobus made a motion to excuse Councilman Harding from this portion of the meeting. It was seconded by Councilman Franklin and upon roll call unanimously carried.

Mayor Ellis opening this hearing to the public

Ed Kinal, Valley Road, said that he felt some of the information was misleading and things were omitted. He said he did his own traffic study and found a 28% increase vs the study which the Borough did and questioned the validity of it. He said he did testing for Public Service for 38 years and feels he knows good data vs. not good data. He said his processing of his calculations was much more accurate than Mr. Moody's. Mr. Kinal spoke about the damage done to his property and used the spring as an example. He said springs do not stop flowing, they just go somewhere else, and things that were done caused problems. He said all of the reasons for the work not to be done were cited prior to the start of the work. He said initially, Mr. Tinder said the project will add value to the properties, and later said it would not change the value of the properties at all. Mr. Kinal said his property had received none of the good benefits from this project, only the negative ones and feels he should not be included in the assessment. He said a lot of things have changed since 1988 and costs have gone up. He said something should be worked out as this will go back to court if a reasonable solution is not met. Mayor Ellis asked Mr. Kinal when he conducted his unofficial traffic study and he replied that he did his at the same times the Borough did. Mayor Ellis thanked Mr. Kinal for his comments and said he would take them into consideration.

Mr. Cruz, for the record, said that Mr. Raymar has presented him with a letter dated February 14, 2004 and has accepted it and marked it as A27 (copy attached).

Mr. Kinal said that Mr. Cruz's report was basically his opinion and that restrictions on deeds turn

people off

Jane Cole, Valley Drive, said she has been in real estate in Watchung for 40 years and disagrees with the town's appraisers. She said sewers do not add value to properties. She said there are about 50 constituents who are unhappy with the original proposal and the best approach would be to sit down with them, because the approach taken by the Borough has forced them into an adversarial position. She said these are decent citizens, not freeloaders, and the town should treat them as decent, honorable people.

Mr Robert Raymar, the attorney for the plaintiffs and residents presented a 2 page memo to Mr Cruz which Mr Cruz accepted and labeled A28. Mr. Raymar referred to a memo which was distributed to the governing body earlier. He said the issue being discussed tonight is complicated and it is much more than money involved. He referred to the 5th and the 14th amendments of the constitution. He said anytime there is a special assessment of property it means property is being taken and that cannot be done without due process. He explained that the due process clause requires an equal benefit in return and notice requirements need to be abided. He said Mr. Cruz stated he gave notice by certified mail to all 59 people affected. Mr. Raymar said he lost this issue in court, however, he will appeal because the notices should have been delivered. Also, he said, Mr. Moody evaluated a 6.87% regional contribution and the Assessment Commission agreed. Mr. Raymar compared Valley Drive to Hill Hollow Drive and said the value of properties on Hill Hollow increased more than those on Valley Drive. Mr. Raymar said Valley Drive is no longer secluded as now people speed up and down it. He said although it is clear the value of the properties did increase on Valley Drive, Mr. Tinder admits he did not factor out the value of improvement. He said no effort was made by the Assessment Committee to determine a particular benefit. He said the Governing Body is a government and can only charge a special assessment, but charged the residents for the sewers. He said the change of the water flow by this project has imposed a cost on the residents. He said the Assessment Commission ignored the Hill Hollow comparison and the new road did not increase the property value, it decreased it. Mr. Raymar said he respectfully asks that the Governing Body rejects this report and get a true appraisal and analysis.

Hans Juette, Elisnore Drive, said he spent a lot of time walking on Valley Drive and felt there is less traffic on Valley than Hill Hollow. He said he sees a lot of large, expensive homes being built on Valley Drive and can't imagine a builder building there if the road wasn't good.

Anthony Addario, Rock Avenue, said that he found this all very interesting, how anything can be taken and turned around. He said he had a background in this and the residents come to the Governing Body when they want something, He said the governing body met with the residents in 1988 and tentative numbers were given at that time, then they met again in 1996 and found out we had to buy easements, then we were accused of building them too large. They (residents) wanted the road, then the water company put pipes in, then a bridge was put in. Mr. Addario said the Governing Body should not drop one nickel and if need be, go back to court and let the judge decide something was done wrong.

Lynda Goldshein, Sherwood Road, said Valley Drive was a safety problem before this, as she used to drive on the Rescue Squad. She knows that the fire trucks could not get down if they needed, it was a private road and private roads are maintained by the residents.

Mr Cruz, referring to Document A28, read the following into the minutes:

ANALYSIS OF 161 DISCREPANCY

The Valley Drive neighborhood population was unchanged during the time frame the Watchung Borough Police counts were performed which means resident traffic flow should be relatively constant throughout the entire period. Therefore, the 161 vehicles per day that are unaccounted for were either inadvertently added to the actual total and should be subtracted or, they can be attributed to additional through traffic that has not been accounted for

Assuming it was inadvertently added:

The total traffic count would become - $(983 - 161) = 822$

Mr. Moody's ADT count, corrected for through traffic, would become $(822 - 194) = 628$ and the Percent through traffic becomes $(194 / 628) = 30.9\%$

My calculated ADT count, corrected for through traffic, would become $(822 - 270) = 552$ and the Percent through traffic becomes $(270 / 552) = 48.9\%$

Assuming it is additional through traffic:

Using only Mr. Moody's data

The total traffic count is still 983.

The correction for through traffic is 983

Minus the correction for rush hour traffic (68)

Minus the correction for non-rush hour traffic (126)

Minus the correction for the additional through traffic (161)

Which yields an ADT of 628

The percent through traffic becomes $(355 / 628) = 56.5\%$

Signed, Edward G Kinal

Mr. Moody said the police traffic analyzer had a difference of 161 cars, however, this was resolved when they took into consideration through traffic trips. He said the difference is 4.5% and a 4.5% range for accuracy is relatively very good and, based on traffic studies, appropriately done. He added that we are not seeing an excessive amount of traffic during rush hour.

Mr. Cruz said he will ask to have the 1996 Ordinance disregarded and assess from the 1988 Ordinance. He said Judge Holmes did not de-value the 1996 Ordinance. With regard to the through traffic count and impact, Mr Cruz said the Borough gave notice not only to the Borough residents, but noticed other residents as well. Also Brook Drive, Hyde Circle, and Will Lane were given credit for thru traffic. Regarding the drainage, the Commission was not convinced that there were additional water problems as a result of the project.

No one else desiring to be heard, Councilman Black made a motion to close the Public Hearing on the Assessment Commission Report. It was seconded by Councilman Franklin and unanimously carried upon roll call.

Mayor Ellis said the testimony has been heard and called for a vote on Resolution 1. A motion was made by Councilman Mobus to accept the Final Report of the Assessment Commission for the Valley Drive Road Reconstruction Project, dated January 22, 2004. It was seconded by Councilman Black and unanimously carried upon roll call.

Councilman Otto said this project has withstood several administrations and everyone has done their best. He thanked the Assessment Commission for their time and effort.

9:12 PM Councilman Harding rejoined the meeting at this time.

REPORT OF STANDING COMMITTEES:

1. Administration & Finance - Councilman Franklin said he attended a personnel meeting on January 11th where the general make up of the main office was discussed. He said he was pleased to announce that Laureen Fellin has agreed to wear two hats, as in addition to the position of Municipal Clerk she has agreed to her appointment as Borough Administrator. He also reported that the evaluation process is going smoothly and on schedule as far as the time table was set. Councilman Franklin also announced the scheduling of a budget meeting for February 21st with regard to the Deer Hunt, he said an amended application has been submitted to the Division of Fish & Wildlife and the Borough is expecting to hear back from them by Saturday and hopes to resume the culling next week. He noted that the hunt is still operating on the original budget and he does not expect any further hitches.

2. Police - Councilman Black, in reference to the Police Committee meeting, said they discussed the communication system for the Police, Fire Department and Rescue Squads.

3. Public Works - Councilman Mobus said the Committee met in January and are looking to bring Rich Moody aboard to improve communication.

4. Buildings and Public Affairs

Buildings - Councilman Otto said he attended a Historical Commission and they will be discussing the Santucci House lease; he also reported that a letter of interest was received regarding 600 Valley Road. Councilman Otto suggested that an inventory of historical assets be implemented, with items being tagged and formally accepted by the Mayor and Council. Mayor Ellis said this would be a good project for boy scouts looking for an Eagle Scout project. Councilman Otto said he also met with the Building and Grounds Committee and they have discussed a drawing of a 5-year plan for evaluating their needs.

Public Affairs - Councilman Harding reported that there was an incident at Bayberry School involving some white powder and he will be discussing it next week with Kevin Sumner at the next Board of Health meeting.

5. Fire - Councilman Harding said he has been working on trying to upgrade their relay system and will be in touch soon with North Plainfield regarding the shared services of a radio repeater. He said he will also be meeting soon to discuss the Fire Department's budget.

6. Laws/Ordinances, and Recreation - In Councilwoman Joren's absence, Mayor Ellis said he was aware that they did meet, however, he had nothing to report.

REPORTS - OTHER:

7. Engineer - Mr. Moody announced that Kupper Associates will be providing plans and specs for the Spencer Lane sewer project. He said this project will be going out to bid shortly. He reported Bohler Engineering has completed the survey on the Anderson I & II project and Titus has finalized the survey in the Eaton / Sunbright area. LTP is finalizing the easements and he plans on meeting with the essential residents.

8. Attorney - Mr. Cruz had no report this evening.

9. Administrator - Mrs. Fellin said she received a good response for the secretarial ad and will be interviewing soon.

UNFINISHED BUSINESS

Councilman Otto said he has questions on the budget process and dates Mrs. Fellin said the tentative dates are either February 21st or February 28th, with hopes of introducing the budget in March. Councilman Otto said he would like to see the Deer Workshop held prior to the budget meeting so an anticipated amount for this can be discussed.

NEW BUSINESS

CONSENT AGENDA: The Consent Agenda listed below was unanimously accepted on roll call following a motion by Councilman Black and a second by Councilman Franklin.

Approval of the following Council minutes:

- Workshop Meeting Minutes - 9/29/03
- Regular Meeting - 12/18/03

Approval of the following Borough Reports:

- Board of Health Minutes - 12/3/03
- Environmental Commission Minutes - 12/15/03
- Planning Board Minutes - 1/20/04
- Building Department Report - January 2004
- Tax Collector's Report - January 2004
- Recreation Commission Minutes - 12/4/03

- #11- Township of Branchburg 12/17/03 Resolution requesting the Senate and Assembly review and amend the statutes that govern the Fire District election process c: Mayor and Council, L. Fellin
- #12- Township of Lawrence 1/16/04 Resolution opposing the State's action concerning "Property Tax Reimbursement Program" c: Mayor and Council, L. Fellin
- #13- N. Stevens, A. Shubiak, M. Perez, P. Casey, P. Manthey, C. Kahn, R. Fuchon 1/21/04 - 2/5/04 Various e-mails opposing deer hunt c: Mayor and Council, A. Cruz, A. McCoy
- #14- Somerset County Planning Board 1/29/04 Introducing a Transit Oriented Development Opportunities Study in Somerset County c: A. Ellis, G. Mobus, R. Moody
- #15- Township of Montgomery 1/15/04 Resolution opposing the State's actions concerning The "Property Tax Reimbursement Program" c: Mayor and Council, L. Fellin
- #16- W. Carlough 1/23/04 E-mail opposing the action to acquire the Subramanian property c: Mayor and Council
- #17- J. and M. Freedman 2/1/04 Opposing the deer hunt c: A. Ellis, T. Franklin, A. McCoy

CONSENT AGENDA: The Consent Agenda listed below was unanimously accepted on roll call following a motion by Councilman Black and a second by Councilman Franklin.

- R5-1/22/04 Purchases over \$2,000 00 - Pumping Services, Inc.
- R6- Approval of Raffle License for Bridgewater Raritan H.S. Panther Athletic Club
- R7- Approval of Special Permit for Social Affair to Mt. St. Mary's Father's Club

- R8: Approval of Raffle License for Mt. St. Mary's Father's Club
- R9: Award of contracts to various vendors under Cooperative Agreements, State Contracts or Federal GSA pricing schedules
- R10: Authorizing application for tonnage grant
- R11: Officially dedicating the Public Works Garage as the "Donald R. Scotti Public Works Center"
- R12: Ratifying resolution to waive building permit fees - Watchung Exempt Firemen's Association
- R13: Confirming appointment of Laureen B. Fellin as Borough Administrator
- R14: Ratify Motion for Settlement agreement with Dynamic Industries

NON-CONSENT AGENDA

NON-CONSENT AGENDA RESOLUTIONS

The resolutions listed below were unanimously adopted on roll call with offering and seconding as follows:

		<u>Offered</u>	<u>Seconded</u>
R2:	Establish Payment Schedule for Assessments	Franklin	Black
R3:	Authorize Payment to Assessment Commissioners	Franklin	Black
R4:	Authorizing endorsement and cancellation of mortgage WTC#5 as agreed through the Watchung Borough Housing Rehabilitation Grant Program	Harding	Mobus
R15:	Award of Professional Service Contract to URS Corporation - Rock slope Remediation at the Police/Court Facility	Black	Franklin

Mayor Ellis said he would personally like to thank the members of the Assessment Commission for taking on this job. He said the work was done well and was deeply appreciated.

PUBLIC PORTION

Maryann Walker Martinez - Valley View Road, said she is an environmental specialist who supports the deer hunt. She said sound devices to ward off the deer have been stolen from her yard and she has deer "doo" all over her yard. She said we have an obligation to the people in the valley, and an obligation to rebirth the environment. She said the deer are destroying the undergrowth and we must create a balance. She agrees that it is sad that they will be killed, however, she feels it is a good thing that the deer meat will be used as food for the food banks. Ms. Walker Martinez said she supports the Mayor and Council.

Marilyn Goldstein, Hill Hollow Road, said she was here this evening representing the Tuttle Road group, who were afraid to come. She said a husband and wife are going door to door and harassing people. She said now that the Borough is down from 21 sites to 2, they are inviting a law suit. Councilman Franklin said that if people are being harassed, it is wrong.

Walter Niegiesh, Tuttle Road, said his position is one of being a friend to all. He said plantings on his property have been defoliated, as his rhododendrons went from 6' to lollypops. He said Mrs. Goldstein's charges were outrageous and represents the attitude and influence of this group. He said people who are feeding the deer are in violation. He said the Council should not be swayed.

Paul Michaels, High Tor Drive, said in order to site his house years ago, he had to use a machete. He said his 35 year old rhododendron is gone and the deer are healthy. He said the deer are immune to reflectors and traffic and have conformed to our community. He said this is a real problem and the situation is beyond emotional. He said a solution is needed.

Ted Rundlet, Vail Lane, said he is in favor of a neighborhood path and feels the Council has only heard one side. He said the residents and their children need to take advantage of what Watchung has to offer. He said there is a beautiful path from Price Drive to Phillips Lane and there are no problems. He suggested that this could be a good Eagle Scout project. He said the kids are not safe without sidewalks. Councilman Black noted that Mr. Rundlet's property is adjacent to the trail.

Alfred Guzzetti, Timberline Way, said when he bought his house, he did so because of the beautiful wooded area, wildflowers and shrubbery, and he went through great trouble not to disturb it. He planted native plants and has enjoyed them over the years until the deer population started to increase. He said to say that you are saving money by not having the hunt is not right, the hunt is needed to keep balance. He urged the Mayor and Council to continue the hunt.

Mark Diana, Valley Road, said that he lives one lot removed from the trail and thinks the Borough is losing a fantastic opportunity for the trail to be accessed. He said the objector's concerns have no basis. He said he has never heard of a problem on the existing trail.

Alice Olejar, Wildwood Terrace, said she was not here to argue, but came tonight to make a simple plea to the Mayor and Council and to Mr. Pote. She said her husband has a serious heart condition and needs to avoid stress. She said Mr. Pote's driveway is one foot from her property line and she hears gunshots all day. She asked for the shooting in her backyard to be terminated.

Emi Havas, Valley Road, said the opponents of the trail are more vocal. She said she is always running into people who think that she has "pull" and they tell her they are in favor of the trail. She said this is a difficult decision and knows many people who are in favor of it who will not come and speak. She commended the Council and reminded them that they took an oath for the people and their property. She advised the Council to stay the course.

Maria Perez, Hill Hollow Road, said there has to be another solution to the deer problem; and

this is dividing the town. She feels the Borough should band together with Summit, Warren and Bridgewater and go directly to the Governor

Mary Cicoella, Johnston Drive, said she is in favor of the hunt, not because she does not like deer but because she likes the environment.

Michelle Stewart, Valley Road, said the hunting will not necessarily control the deer. She said they will learn to avoid the sites and we are down to 2 or 4 sites. She said Councilman Franklin admitted we need more sites. She said people have been hunting for decades and there is still a problem.

Joel Goldschein, Sherwood Drive, said 73% of the people surveyed on a hunt reacted favorably and this says something. He said New Jersey has an acute overpopulation of deer and feels the Mayor and Council have shown a lot of courage. He said there has been a lot of harassment going on with the opponents and the police have had to intercede.

Allan Lubin, Glen Eagles Drive, said this is not a hunt, it is a slaughter and said 85% of his neighborhood is against it.

Steve Pote, Wildwood Terrace, said the petition from Gen Eagles which went around had 27 signatures, 2 of which were children. He said it represented only 13 households and people were harassed into signing it. He said his decision to support the hunt was not an easy one; however, after 3 years of being a party to it he feels he has enough knowledge now to make the right decision, the best decision. He said the Borough has a deer epidemic. He said he explained the situation to his 11 year old daughter and even she is mature enough to understand. He asked if the Borough is going to wait until someone gets seriously hurt in a car accident. He said we must return the balance of nature.

Marti Halmo, Tuttle Road, said she has 3 articles from the town of Millburn and they say the reflectors work. She said deer accidents are up 57%, even with the hunt. She said when she called the Watchung police during the hunt, she spoke to two sergeants who told her they were told to do nothing. Mayor Ellis said that comment was out of line and is a police matter. He asked Councilman Black to look into it.

Tony Addario, Rock Avenue, said reflectors were used in Morris County and the results were inconclusive. He said a mother and daughter in Pennsylvania were killed in a deer- car accident. He said Councilman Franklin is taking a beating on this and needs the support from the Council.

Councilman Mobus noted that Resolution R11 officially dedicated the Public Works Garage as the "Donald R. Scotti Public Works Center".

ADJOURNMENT

There being no further business to come before the Council, the meeting was adjourned at 10:20 PM to the call of the Chair until the next scheduled meeting on February 26, 2004.

Respectfully submitted,

Michelle DeRocco
Deputy Clerk