

# BOROUGH OF WATCHUNG

## MINUTES

MARCH 12, 2009 - 7:30 P.M.

**MAYOR'S STATEMENT:** In Mayor Ellis' absence, Council President Gerald Mobus called the meeting to order at 7:30 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, and Star Ledger, and posted at Borough Hall.

### **SALUTE TO THE FLAG and SILENT PRAYER**

### **ROLL CALL**

Mobus [ P ] Black [ A ] Franklin [ P ] Joren [ P ] Pote [ P ] Nehls [ P ]

Also present were Administrator/Clerk Lauren Fellin, Attorney Albert Cruz, Lt. Tim Wenzel, and Deputy Clerk Michelle DeRocco. Although not present at roll call, Councilman Black arrived at 7:37 PM.

There were 39 members of the public present.

### **PROCLAMATION**

Girl Scout Week / March 8 - 14th

In honor of Girl Scout month, Acting Mayor Mobus asked the Girls Scouts present to lead the salute to the Flag. He then presented them with a proclamation honoring Girl Scout Week (copy of proclamation attached.) Representing the Girl Scouts were Sarah Wilson, Jennifer Tyler, Melissa Pen-  
nett, Julia Amiano and Alexandra Benc.

### **SPECIAL PRESENTATION**

Assemblyman Jon M. Bramnick - COAH Update

Assemblyman Jon M. Bramnick was present and gave a brief history COAH, explaining the concept is to facilitate the production of affordable housing for low and moderate income households, and to protect municipalities from developer's lawsuits. These State mandates are proving to be a financial hardship to many towns in addition to a planning nightmare. He explained several legislative bills that are pending, one of which could bring back RCA's (Regional Contribution Agreements), an agreement that previously allowed towns to receive credits for agreements between two or more municipalities, a concept the State determined was morally wrong. Recently, many towns have joined together in litigation to challenge COAH and its unreasonable obligations. He said the State is not changing any requirements, however, he is hopeful that if the legislation is able to pass, some relief for the municipalities will be obtained. He said he is hoping that the State restructures COAH to reflect the current economic conditions. Assemblyman Bramnick, along with his team of associates, fielded questions from the Council and the public. Councilman Mobus thanked Assemblyman Bramnick and reaffirmed that Watchung is in compliance.

### **REPORT OF STANDING COMMITTEES:**

1. Administration & Finance - Councilman Franklin reported that the budget will be discussed soon and the Council is working hard to keep it "flat".

2. Police - Councilman Mobus announced receipt of the Police Activity Report and said it would be discussed, if needed, at the next meeting.

3. Public Works - Councilman Nehls reported the Public Works Committee met with Lee Purcell to discuss sanitary sewers, and that he attended a meeting with the DOT in regard to planned improvements of the Rte. 22/Bonnie Burn Road interchange giving all a "heads up" that this project will take at least a year to complete and the traffic generated by this project will be complicated by additional traffic and detours as a result of the bridge replacement on Stirling Road, which will be going on the same time.

4. Buildings and Public Affairs

Buildings - Councilman Pote reported the Tax, Construction, and Zoning Offices are now housed in the Bonus Room and the Historical Committee is discussing designs for converting the bottom floor of the Texier House into a museum. He announced the Buildings & Grounds Committee will be meeting on Monday, and the Rescue Squad's monthly meeting is scheduled for Tuesday. He read the Rescue Squad's statistics for the month of February.

Public Affairs - Councilman Nehls noted the proclamation on the agenda for Poison Prevention Week and said the Board of Health is fortunate to have Bruce Ruck as a member, as he works for the NJ Poison Control Center. He thanked Jean Ross, secretary and registrar for Middle Brook Regional Health Commission, who is retiring after 37 years, for her dedicated service and announced the Pancake Breakfast will be held on March 21<sup>st</sup>. He said all proceeds from the breakfast will go to the Somerset County Food Bank.

5. Fire - Councilman Black had no report.

6. Laws/Ordinances, and Recreation - Councilwoman Joren said the Council will be voting on 4 proposed ordinances, one of them being the Land Development Ordinance, and reminded all that March 27<sup>th</sup> is the Recreation Commission's "Basketball Shootout".

**REPORTS - OTHER:**

7. Engineer - Mr. Herits was not present.

8. Police Chief - In Chief Whelan's absence, Lt. Tim Wenzel was present and was prepared to talk about the Chief's meeting with the DOT in regard to the Rte. 22 Overpass and Bonnie Burn Road, however, Councilman Nehls covered it in his report.

9. Fire Department - No report was presented.

10. Rescue Squad - No report was presented.

11. Attorney - No report was presented.

12. Administrator - Mrs. Fellin had no report.

=====

**UNFINISHED BUSINESS**

**Public Hearing on Proposed Ordinance 09/01 entitled "AN ORDINANCE CODIFYING THE LAND DEVELOPMENT ORDINANCE OF THE BOROUGH OF WATCHUNG"**

Public comment on this Ordinance will be handled as follows:

1. Residents within 200' of any proposed classification or boundary change
2. Residents of the Borough outside of the above 200' limit
3. All others

Public Comment should be addressed to the contents of OR:09/01

Planning Board Resolution PB09-R6 - Recommending the adoption of proposed Ordinance OR:09/01 - revision to the Land Development Ordinance

Councilwoman Joren called for a second and final reading of the ordinance. The Clerk read the ordinance by title and produced an affidavit of publication, certification of posting and availability of copies. Councilwoman Joren moved a public hearing be held with a second by Councilman Black and unanimously carried on roll call. Councilwoman Joren gave a synopsis of why this Ordinance is being revised and the history of its composition. She explained that this is, and always will be, a living document that can be changed and revised if needed. She said basically this document is now "user friendly" as it will be available on disk as well as posted on our website, in addition to being easier to understand and easier to enforce. Planning Board Chairman Don Speeney also provided the Planning Board's history, perspective and many meetings with the Laws and Ordinance Committee. He outlined the zoning changes and answered many questions from the public who were present.

Johanna Martoccia, Mountain Boulevard, asked how the decision was made to change her property from BA to RR, and Mr. Cruz explained that this was done in an attempt to maintain the character of that area in relation to its current uses, adding that a line had to be drawn somewhere.

David Goode, Prospect Avenue, questioned the zoning change for the house on the corner of Bonnie Burn Road and Johnston Drive, and Mr. Cruz explained that decision is before the Board of Adjustment and that Mr. Goode should voice his concerns at that meeting.

George Sayan, Johnston Drive, asked when the Ordinance will become law and Mr. Cruz explained that if this Ordinance is adopted tonight, it becomes law upon publication and formal notification to the County Planning Board.

Cory Vergilio, Shawnee Drive, asked if the impact of traffic that could be generated from changing his area from BA to BB was considered, and Mr. Speeney explained that traffic would be considered if and when an application comes before the Planning Board. Councilwoman Joren added that the change to a BB zone is less intense.

Judith Cotoulas, Somerset Street, spoke on behalf of her parents and was concerned that the change in zoning on Somerset may prevent her parents from selling their home as a residence in the future and Mr. Cruz explained that it would, only if they cease to use it as a home.

Steve Caruso, Mountain Boulevard, asked if this Ordinance re-zones the Ness Property and Councilwoman Joren said it does not.

Keith Balla, Shawnee Drive, asked if the Ordinance affects stream encroachments and Mr. Cruz explained that they are regulated by the State.

Bob Rose, owner of the O'Conner's property, asked if his property was changed and Mr. Cruz advised him to check the ordinance to see if his property was listed.

Dan Sheerer, Hampton Drive, Berkeley Heights, asked what type of buildings would be permitted in a cemetery zone and Mr. Cruz replied mausoleums and Mr. Speeney added that cemeteries are regulated by the state.

Mary Ciccolella, Johnston Drive, asked if the westerly side of Bonnie Burn Road was rezoned to RR and Mr. Speeney said it was not.

William Butler, Esq., attorney for Welden Quarry, asked if the corner of Valley and Bonnie Burn is still zoned as RR and Mr. Speeney said it was.

With no one else desiring to be heard, Councilwoman Joren moved the public hearing be closed, the ordinance be adopted, and the Clerk be directed to publish the notice of adoption. Councilman Black seconded the motion, which carried unanimously on roll call.

Acting Mayor Mobus thanked all for coming, and thanked Councilwoman Joren and her Committee, along with Chairman Speeney and the Planning Board members, and also Mr. Cruz, for all of the time and hard work that went into bringing this revision to fruition.

Public Hearing on Proposed Ordinance 09/03 entitled "AMENDMENT TO ORDINANCE DETERMINING POSITIONS ELIGIBLE FOR THE DEFINED CONTRIBUTION RETIREMENT PROGRAM." Councilwoman Joren called for a second and final reading of the ordinance. The Clerk read the ordinance by title and produced an affidavit of publication, certification of posting and availability of copies. Councilwoman Joren moved a public hearing be held with a second by Councilman Black and unanimously carried on roll call.

With no one desiring to be heard, Councilwoman Joren moved the public hearing be closed, the ordinance be adopted, and the Clerk be directed to publish the notice of adoption. Councilman Black seconded the motion, which carried unanimously on roll call.

Public Hearing on Proposed Ordinance 09/04 entitled "AN ORDINANCE OF THE BOROUGH OF WATCHUNG ESTABLISHING REGULATIONS AND PERMIT REQUIREMENTS FOR THE PLACEMENT AND USE OF THE CHARITABLE CLOTHING BINS WITHIN THE BOROUGH." Councilwoman Joren called for a second and final reading of the ordinance. The Clerk read the ordinance by title and produced an affidavit of publication, certification of posting and availability of copies. Councilwoman Joren moved a public hearing be held with a second by Councilman Black and unanimously carried on roll call.

Stephen Caruso, Mountain Boulevard, inquired as to the specifics of this Ordinance and Councilwoman Joren explained that this will set regulations for clothing donation bins, new ones and ones that are already in place, and will require them to have a permit, and clearly state on the bin where the items are going and what they will be used for. She said the enforcement will be by the Zoning Officer.

With no one else desiring to be heard, Councilwoman Joren moved the public hearing be closed, the ordinance be adopted, and the Clerk be directed to publish the notice of adoption. Councilman Black seconded the motion, which carried unanimously on roll call.

Public Hearing on Proposed Ordinance 09/05 entitled "AN ORDINANCE REPEALING SECTION 2-25.16 OF THE CODE OF THE BOROUGH OF WATCHUNG, TITLED "ALL PURCHASES MADE WITH AUTHORITY OF THE PURCHASING AGENT" AND REPLACING IT WITH A NEW SECTION 2-25.16 WITH THE SAME TITLE PROVIDING FOR PURCHASES MADE WITH THE AUTHORITY OF THE PURCHASING AGENT." Councilwoman Joren called for a second and final reading of the ordinance. The Clerk read the ordinance by title and produced an affidavit of publication, certification of posting and availability of copies. Councilwoman Joren moved a public hearing be held with a second by Councilman Black and unanimously carried on roll call.

Former Mayor Addario, Rock Avenue, asked why past purchases were not approved by the Purchasing Agent and Councilwoman Joren explained that they were, this is just a clarification and Councilman Franklin added that this will also now include procedures for accepting donations.

With no one else desiring to be heard, Councilwoman Joren moved the public hearing be closed, the ordinance be adopted, and the Clerk be directed to publish the notice of adoption. Councilman Black seconded the motion, which carried unanimously on roll call.

=====

**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:  
February 26, 2009

Approval of the following Borough Reports:  
Historical Committee Minutes - November 12 and December 10, 2008  
Tax Collector's Report - December, 2008  
Board of Health Minutes - December 3, 2008 and January 21, 2009  
Board of Adjustment Minutes - January 15, 2009

- #18 - Township of Warren 2/24/09 Notice of Adoption of Ordinance No. 09-06 - Revision to Land Use Procedures and Development c: M & C, LBF, Eng., DS
- #19 - Superior Management Group, Inc. 3/6/09 Expressing several concerns in regard to the development of Villa Domenico, and requesting to be heard during the public portion of this meeting
- #20 - Patriots' Path Council, Inc. 3/6/09 Letter of thanks for recognizing Boy Scout Week c: M & C, LBF

=====

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

- R5:3/12/09 Purchases Over \$2,000. - Russ Nelson Painting
- R6: Authorize Cancellation of Outstanding Checks - Court / Bail Account
- R7: Clarification of Appointment Term - Local Assistance Board / Lynn Franklin
- R8: Accept Donation - Martoccia Landscaping
- R9: Authorize Disposal of Surplus Property - Misc. Office Equipment
- R10: Authorize Return of Escrow - Various Applicants as Listed
- R11: Authorize Change Order and Accept Project - Jenicar Builders / Beechwood Place, Brookdale Road Improvements

=====

**NON-CONSENT AGENDA**

Introduction of Proposed Ordinance OR:09/06 entitled "AN ORDINANCE AUTHORIZING A CONVEYANCE IN FEE AND TEMPORARY CONSTRUCTION EASEMENTS TO THE COUNTY OF SOMERSET FOR BRIDGE REPLACEMENT AND ROADWAY IMPROVEMENTS ON STIRLING ROAD OVER THE EAST BRANCH OF STONY BROOK IN THE BOROUGH OF WATCHUNG." Councilwoman Joren moved the ordinance be given its first reading. So ordered. Councilwoman Joren explained this ordinance authorizes a conveyance in fee for property from the Borough of Watchung to the County of Somerset for a portion of Block 44.01, Lot 5 as shown on the Tax Map of the Borough, containing 1,266 square feet (0.029 acre) in addition to authorizing Temporary Construction Easements, necessary for the County to proceed with planned bridge replacement and roadway improvements on Stirling Road over the East Branch of Stony Brook in the Borough of Watchung.

Councilwoman Joren moved the ordinance be adopted on first reading and the Clerk be directed to publish the ordinance and notice of public hearing. The motion was seconded by Councilman Black and unanimously carried on roll call Public Hearing to be held on March 26, 2009

Letter from Mayor Ellis advising of Planning Board Appointments

Dianna Beck-Clemens - Alternate #1 for an unexpired term ending 12/31/2009

Proclamation - Poison Prevention Week

Councilman Nehls, on behalf of Mayor Ellis, offered a proclamation proclaiming March 15th through March 21st as Poison Prevention Week in the Borough (copy of proclamation attached.)

=====

**NON-CONSENT AGENDA RESOLUTIONS**

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

		<u>Offered</u>	<u>Second</u>
R1:3/12/09	Adoption of Ordinance OR:09/01 - Land Development Ordinance Revision	Joren	Black
R2:	Adoption of Ordinance OR:09/03 - Amendment to DCRP	Joren	Black
R3:	Adoption of Ordinance OR:09/04 - Establishment of Regulations / Charitable Clothing Bins	Joren	Black
R4:	Adoption of Ordinance OR:09/05 - Amend Code regarding Purchasing Policy	Joren	Black
R12:	Introduction of Ordinance OR:09/06 - Deed and Easement Conveyance to County for Stirling Road Improvements	Joren	Black

-----

**PUBLIC PORTION**

Stephen Caruso, Mountain Boulevard, asked if he could obtain a copy of the State's plans for the Bonnie Burn Road/Rte. 22 Overpass in a PDF file and Mrs. Fellin advised him that at this time, the Borough is not in receipt of the plans.

Barbara Potashkin, Villa Domenico resident, referred to Correspondence #19 on the agenda, expressing concerns the Villa Domenico residents have due to their complex not being completed, the road conditions, and the age restriction of 62 years. Mr. Cruz advised that procedures from the Planning Board and Board of Adjustment are in place that need to be followed, and he will review the original applications and approvals.

Former Mayor Addario, Rock Avenue, questioned if the DCRP program specifically addressed the Borough's part-timers and Mrs. Fellin said no and explained the Borough's part-timers are in the PERS, and that the DCRP was for specific positions.

=====

**ADJOURNMENT**

There being no further business to come before the Council, the meeting adjourned to the call of the Chair at 9:40 P.M. to the next meeting regularly scheduled meeting on Thursday, March 26, 2009.

Respectfully submitted,

Michelle DeRocco, RMC  
Deputy Clerk