

JANUARY 18, 2011

PAULSBORO, N.J.

5:00 P.M.

WORK SESSION MEETING

Council Chamber:

Mayor Burzichelli presided at a Work Session Meeting of Council held on the above date and place.

Members present were: Haynes, Giovannitti, Hamilton, Kidd. Absent: Morina (expected), Tedeski (excused).

Mayor Burzichelli called the meeting to order.

Borough Clerk VanScoy read the opening statement regarding the Open Public Meetings Act.

Mayor Burzichelli opened the floor to the public.

David Phillip, 337 Greenwich Avenue, questioned the status of the ordinance regarding parking on the street when there is snow.

Mayor Burzichelli stated it is still being worked on but it is coming.

Administrator Salvatore stated there were some issues such as the trigger mechanism, exemptions and notification.

Mayor Burzichelli stated Council will have to re-think these issues and revisit the Ordinance.

**R. #41.11: RESOLUTION PROVIDING FOR THE PAYMENT OF BILLS OUT OF THE 2010 RESERVE ACCOUNTS.** Haynes moved and Hamilton seconded to pay all bills properly signed and adopt R. #41.11. Roll call: Ayes: Haynes, Giovannitti, Hamilton, Kidd. Nays: None. **Motion carried.**

**R. #42.11: RESOLUTION PROVIDING FOR THE PAYMENT OF BILLS OUT OF THE 2011 TEMPORARY BUDGET.** Haynes moved and Hamilton seconded to pay all bills properly signed and adopt R. #42.11. Roll call: Ayes: Haynes, Giovannitti, Hamilton, Kidd. Nays: None. **Motion carried.**

## **SECOND READING AND PUBLIC HEARING:**

**O. #01.11: AN ORDINANCE OF THE BOROUGH OF PAULSBORO AMENDING CHAPTER 34A, "FIRE PREVENTION CODE" OF THE BOROUGH OF PAULSBORO.** Haynes moved and Hamilton seconded to open the meeting to the public. All were in favor of the motion.

There wasn't any public participation.

Haynes moved and Hamilton seconded to close the meeting to the public. All were in favor of the motion.

Haynes moved and Hamilton seconded to adopt O. #01.11 on second and final reading. Roll call: Ayes: Haynes, Giovannitti, Hamilton, Kidd. Nays: None. **Motion carried.**

## **SECOND READING AND PUBLIC HEARING:**

**O. #02.11: AN ORDINANCE OF THE BOROUGH OF PAULSBORO AMENDING CHAPTER 47 OF THE CODE OF THE BOROUGH OF PAULSBORO PROVIDING FOR REGULATIONS GOVERNING YARD SALES.** Haynes moved and Hamilton seconded to open the meeting to the public. All were in favor of the motion.

There wasn't any public participation.

Haynes moved and Hamilton seconded to close the meeting to the public. All were in favor of the motion.

Haynes moved and Hamilton seconded to adopt O. #02.11 on second and final reading. Roll call: Ayes: Haynes, Giovannitti, Hamilton, Kidd. Nays: None. **Motion carried.**

## **SECOND READING AND PUBLIC HEARING:**

**O. #03.11: ORDINANCE AUTHORIZING SPECIAL EMERGENCY APPROPRIATION PURSUANT TO N.J.S. 40A:4-53.** Haynes moved and Hamilton seconded to open the meeting to the public. All were in favor of the motion.

There wasn't any public participation.

Haynes moved and Hamilton seconded to close the meeting to the public. All were in favor of the motion.

Haynes moved and Hamilton seconded to adopt O. #02.11 on second and final reading. Roll call: Ayes: Haynes, Giovannitti, Hamilton, Kidd. Nays: None. **Motion carried.**

**R. #43.11: RESOLUTION AUTHORIZING A CONTRACT TO PROVIDE COMPUTER-GENERATE NEW TAX MAPS FOR THE BOROUGH OF PAULSBORO FOR REVALUATION COMPLIANCE PURPOSES.** Haynes moved and Giovannitti seconded to adopt R. #43.11. Roll call: Ayes: Haynes, Giovannitti, Hamilton, Kidd. Nays: None. **Motion carried.**

Received Bingo License Application for St. Clare of Assisi Parish, RA-544, for their 2011 Saturday Bingos.

Received Bingo License Application for St. Clare of Assisi Parish, RA-545, for their 2011 Sunday Bingos.

Haynes moved and Hamilton seconded to receive, file the applications and approve the above licenses. All were in favor of the motion.

Memo from James Pierson, Angelini, Viniar & Freedman, regarding TA Operating Corporation v. Borelli, et als. Haynes moved and Hamilton seconded to receive, file the letter and have Solicitor Daniels ask James Pierson from the Solicitor's Office to attend the next Work Session Meeting to be held on February 14<sup>th</sup> to discuss this matter further. All were in favor of the motion.

Letter from the State of New Jersey, Division of Local Government Services, regarding Notice of Denial. Haynes moved and Hamilton seconded to receive and file the letter. All were in favor of the motion.

Administrator Salvatore explained the State informed the Borough that the ordinance doesn't specify the exact number the member would receive. He felt this matter should be turned over to the Solicitor as the ordinance has to be amended to reflect the amount to be all or nothing. There is a certain point criteria which is 100 points to qualify for the full amount of \$1,150.00.

There was further discussion regarding what the amount would be and the points' criteria that is involved.

Mayor Burzichelli stated the Solicitor will talk to the program person at the State to clarify what has to be done to amend the Ordinance and then amend the Ordinance.

Mayor and Council discussed the draft ordinance to amend Chapter 76, Part 4, "Public Parking Lots". It was felt the overnight parking was the big issue, fees and time limits to park were other issues.

Mayor Burzichelli stated there shouldn't be any fees but permits should still be issued.

Administrator Salvatore felt the Police Department would be the issuing agency.

Councilman Giovannitti stated his committee will get together and go over the draft ordinance to amend it regarding who issues the permits, increase the time limits and waive the fees.

Mayor Burzichelli stated at the Reorganization Meeting Council only appointed the Chairpersons of the Councilmanic Committees as someone may want to change to a different committee. He asked Council President Haynes to take the reins to fill these committees.

Council President Haynes stated he will contact each chairperson to see what their pleasure is.

Mayor Burzichelli stated this year's budget will be the most difficult budget because of the CAP issue.

Mayor and Council discussed the disciplinary hearing for a Liquor License establishment. There is a difference of opinion.

Administrator Salvatore questioned if the problems have been abated.

Detective Sergeant Marino stated the charges were in house and those charges have been corrected. He suggested bringing in the owner, suspend the sentence and hold in abeyance for six months or one year.

Mayor and Council further discussed the notice to be given to the owner.

Chief Grogan stated Council can put a hold on it and the Police Department will call them in and let them know the state they are in regarding their conduct and that it will be held for six months. The Police Department will be doing re-evaluations on the licenses to renew anyway and they would have to clean up their act. Any reoccurrence of any kind whatsoever the Governing Body will revisit these complaints as well as any new complaints at the time the license is being reconsidered.

Mayor Burzichelli felt too much time has passed and they are complying.

Solicitor Daniels stated when this was first brought to his attention it was to draft the notice of charges and he does have some substantial experience representing licensees on the other side. He drafted a notice and he provided that to the Clerk on January 7<sup>th</sup> with his description of why he made that recommendation and legal basis for it. He knows the Borough relies upon the handbook for Municipal Issuing Authorities but he cautions Mayor and Council on relying upon that as it is not legal authority but simply a Deputy Attorney General's interpretation of the statutes that govern intoxicating liquors as well as the rules and regulations that are promulgated under it. The actual rules for disciplinary proceedings are set forth in the Administrative Code and it has a specific requirement in there of what needs to be in the notice. The form notice that he prepared includes each of those requirements, one of which is a requirement that they be given 30 days to enter a plea of guilty or not guilty or non vault.

Mayor Burzichelli questioned why the other document would be in such direct conflict.

Solicitor Daniels stated it is not in direct conflict but don't look at that one particular statute in a vacuum but look at all the laws regarding preparing notice that complies with all the laws and regulations.

Mayor Burzichelli questioned why a state agency would put out a directive of conduct.

Solicitor Daniels stated because he felt they were wrong and he can illustrate this by way of example. He represented a client, they received a notice of charges five days before a hearing, they came before the board, had a hearing, they were suspended, two weeks later that same board passed a resolution for that suspension. His client came to him and said he was suspended and asked what he could do. He told him to give him all his paperwork. He reviewed it; the notice was insufficient and didn't comply with the law. It didn't advise the licensee it had 30 days to enter a plea. He contacted the Solicitor and said the notice is deficient and he has 30 days to enter a plea and he is entering his plea now of not guilty. They had to reschedule the entire hearing and everything that the board did was a waste of time and money. He is just trying to avoid the same issue. If Council does that Council would still comply with the five days. That is only in regards to suspensions. The disciplinary proceedings are governed by the Administrative Code.

Mayor Burzichelli further questioned does the Council compromise their position in dealing with this particular licensee in the way the Chief is suggesting.

Solicitor Daniels stated it would depend on how the Borough is going to go forward with that process. Is there going to be notice of charges sent to that licensee.

Chief Grogan stated no, the Governing Body holds the charges in lieu of future behavior. The Police Department would bring in the licensee informally to let them know this situation has occurred and that there are charges that may be brought forward in the event they do not conduct themselves appropriately. It is kind of like a warning and that the Governing Body will, if necessary, move forward with the charges.

Solicitor Daniels felt it could be problematic unless the Borough is going to notify them of what the existing charges are because the Borough is basically delaying that to a future hearing and if there are charges pending, they are in violation, they should really be given notice of it now.

Mayor Burzichelli questioned if the Borough prejudices themselves in a future hearing knowing that these charges were floating and it choose not to act on a hearing.

Solicitor Daniels stated the charges are based upon first, second and third offenses so if the Council doesn't hold them guilty of any of these charges or found liable then Council would be back to the first offense.

There was further discussion regarding the disciplinary hearing.

Mayor Burzichelli stated from his vantage point, considering the time, what has been rectified and what the value of the meeting would bring, Council probably could accomplish what Council would accomplish in this first round and Council would know if this happens again a hearing would be conducted in a way that was appropriate and Council would reach a conclusion. His issue is that too much time has passed and there is improvement that's been made.

Solicitor Daniels stated he has no issue with that as long as Council doesn't go back to the original charges nine months down the road. They would have to file under the same sections and the Borough would bring new charges at that point.

Councilman Giovannitti discussed the ordinance with serving food in the Liquor Stores and he thought when the Chief looked at the ordinance it was confusing.

Chief Grogan explained that the Borough added a piece to the ordinance that said they couldn't sell these things. Unfortunately what was done at that time is there is a section in the Code that says municipalities could prohibit these liquor establishments from selling everything except these specific items. When the Borough made ordinance, the Borough took that section and added it to it prohibiting these items but these are the very things the Borough cannot prohibit. The Borough can't prohibit selling pretzels, chips, etc. Candy is the one thing that can be prohibited. He suggested, as per the Lieutenant, prohibiting anyone under the age of 21 to enter the store.

Mayor Burzichelli stated what if someone wanted to pick up a six pack and wants to take their child in with them because they don't want to leave the child in the car. How would Council do that?

Solicitor Daniels thought for policy reasons, the Borough wouldn't be able to do that.

Chief Grogan stated the ordinance has to be changed because what is contained in the ordinance is specifically prohibited by NJABC. He further stated that given the ordinance has to be changed, which he asked everyone to take a look at it again, and see what it is Council is looking to obtain. Council could prohibit candy, taskykakes or sweets or some language but chips and pretzels cannot be prohibited.

Administrator Salvatore stated if the Borough gets to a point where the ordinance is amended there is another section that needs to be amended and that is the New Year's Eve issue. It basically says if New Year's Day would have been a Friday the establishments could stay open until 4:00 a.m. but if New Year's Day falls on a Saturday the establishments would have to close at 2:00 a.m. Friday night going in which he thinks is a throw back when this was amended because of the ballot question. It wasn't addressed.

Mayor Burzichelli authorized the Solicitor to prepare an amendment to the ordinance regarding the sweets issue.

Administrator Salvatore stated the Borough is continuing to get called in on a domestic between the G.C.I.A. and the adjacent landowner at the site of the overpass for the Port. He received a letter from the G.C.I.A. that they will install a construction fence delineating the Borough's property at the portion that was taken by the G.C.I.A. for imminent domain for the overpass and the adjacent landowner's property. Once the fence is up, the Police will have a clear direction so when the property owner calls and says there is trespassing, the

Police Department can take action.

Chief Grogan requested hiring an officer to replace an officer who has resigned.

Mayor Burzichelli stated he was in favor of hiring an officer but this matter will need to be held until the Borough grasps the budget numbers.

Chief Grogan stated no action was needed at this time.

Chief Grogan presented the Department's budget proposal. He will put forth a more in depth budget at the next work session meeting.

Chief Grogan also asked for two promotions. They are to promote Lt. Wachter to Captain and to promote Investigator Gary Kille to Detective. The promotion for Inv. Kille would not involve a raise but would include a stipend for clothing. The position of Captain is an increase in salary. He stated these promotions can be done and he will keep the budget less than last year. He felt the Department can manage within the existing budget. He also felt if the Borough waited until June to replace the Officer, it would save \$26,000. He also informed Mayor and Council that someone will be retiring in the spring and he will be retiring at the end of this year or February of 2012.

Mayor Burzichelli stated the Chief gave an impressive presentation and felt the Department was well run.

Councilman Kidd discussed the Work Session Meetings converting back to Tuesdays at 7:00 p.m.

Mayor Burzichelli stated Council will take it into consideration.

There wasn't any further Borough business.

Hamilton moved and Haynes seconded to adjourn the meeting at 6:20 p.m. All were in favor of the motion.

This is a brief summary of the Work Session Meeting of the Mayor and Council of the Borough of Paulsboro held on January 18, 2011 and should not be considered a verbatim transcript of the meeting.

Respectfully submitted,

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Kathy A. VanScoy, RMC/CMC  
Borough Clerk

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John J. Burzichelli, Mayor