

Minutes of a Special Council Meeting of the Borough Council held at 7:30 p.m. on Tuesday, May 15, 2012, in the Council Chamber, Hillsdale, New Jersey.

The meeting was called to order by Mayor Arnowitz who also led the Salute to the Flag.

ANNOUNCEMENT OF MEETING

Mayor Arnowitz stated, "This is a meeting of the Hillsdale Borough Council on this 15th day of May 2012. Notice of the time and place of this meeting has been provided to The Ridgewood News, Pascack Press, The Record and Community Life; a copy was posted on the bulletin board outside of this meeting room and provided to any interested parties".

Please notify the Municipal Clerk for any disability requirements necessary for attendance at Mayor and Council meetings. The fire exits are located through the double doors to your left. Please silence all cell phones and pagers.

ROLL CALL

Municipal Clerk Witkowski called the roll those present being as follows: Council Members Becker, DeRosa, Frank, Giancarlo and Hanlon. Also in attendance was Borough Attorney Paul.

APPROVAL OF MINUTES

There were none.

Mayor Arnowitz stated as per meeting of May 1, 2012 the carry over budget hearing.

CONTINUED PUBLIC HEARING ON BUDGET AMENDMENT FOR THE 2012 MUNICIPAL BUDGET

Mayor Arnowitz opened the meeting to the public. Notice of hearing on amendment was advertised three days before the date set therefore under 40a:4-9, on May 11, 2012. If anyone desires to be heard regarding the amendment to the 2012 Municipal Budget, please raise your hand to be recognized, come forward to the microphone and state your name and address for the record.

Seeing no one, the public hearing was closed.

RESOLUTIONS

R 12088 Adoption of Amendment to the 2012 Municipal Budget and advertised under N.J.S.A.40A:4-9

Motion to approve was made by Councilmember Frank, seconded by Councilmember Hanlon.

Roll Call Vote:

Ayes: Councilmembers DeRosa, Frank, Hanlon and Becker

Nays: Councilmember Giancarlo

R 12089 Adoption of the 2012 Municipal Budget

Mayor Arnowitz asked if there was any discussion by the Council on this matter.

Mayor Arnowitz stated that he is concerned about the budget.

Motion to adopt the 2012 budget was made by Councilmember Frank, seconded by Councilmember DeRosa.

Roll Call Vote:

Ayes: Councilmembers DeRosa, Frank, Hanlon and Becker

Nays: Councilmember Giancarlo

CORRESPONDENCE:

There was none.

DISCUSSION:

There was none.

GENERAL PUBLIC HEARING:

Donald MacLachlan, Attorney-2 Park Way, Upper Saddle River

Mr. MacLachlan stated that he was here on behalf of the Hillsdale-Westwood Flood Solution Group related to the current status of the United Water Dam Rehabilitation Project. His purpose this evening was to address the Council on some recent events, namely, a non public meeting that was held with United Water May 11, 2012. Mayor Arnowitz at this time stated that he has not met with the Council to discuss the meeting, so this will be the first they are hearing any of this news. Mr. MacLachlan continued, the discussion was regarding the “progress” of the project over the past two and a half years. His purpose this evening is not to discuss just this one particular meeting, but to focus upon, and to use historical facts to demonstrate why the meeting held on May 11, 2012 was actually a distraction from the progress Hillsdale and specifically, the Hillsdale Planning Board has been making on these issues and a disservice to Hillsdale, Westwood and the flood affected communities.

To begin with, the meeting was closed to the public. Given the importance of the Dam Construction Project, the residents/property owners of Hillsdale and Westwood, the level of public interest and governmental action to date by Hillsdale, a meeting such as this being “unannounced” and “closed to the public” is not consistent with serving the interests of the flood affected residents. Because this meeting was both “unannounced” and “closed to the public”, the group respectfully suggests it is not inappropriate to refer to this gathering as a “secret meeting”. Mayor Arnowitz stated that he had protested previously that a flood related meeting was not a public meeting but distinguished the May 11th meeting as different because the Press was not invited.

The meeting was not called by an official of Woodcliff Lake, Hillsdale or Westwood, but each Mayor of these towns were invited as well as the Borough Engineers of each town. Assembly members Schepisi and Schroeder were also present. The meeting was called by the DEP-Office of Local Government Assistance and DEP Dam Safety was also present. Given the current circumstances with the United Water Project, the group respectfully suggests that the DEP Office of Local Government Assistance is unwittingly distracting the focus of the resources from the lawful process of resolving important land use questions through the time honored due process of the Planning Board.

Mr. MacLachlan continued that the suggestion was made at the meeting, that perhaps by the DEP Office aforementioned, there is a need for “informational meetings” during which representatives from United Water can present information to the public regarding the Dam Construction Project.

This evening Mr. MacLachlan is here on behalf of the flood affected residents of Hillsdale and Westwood to remind the governing officials and public, for United Water to conduct another self serving “informational meeting” is not what will resolve the pending land use issues. What is needed is for the Hillsdale Council and Planning Board

to stay the course and require United water to comply with Hillsdale's land use laws as any other application presented to the town.

Mr. MacLachlan reviewed the historical facts of the situation.

November 5, 2009-Hillsdale Engineer wrote DEP stating that it was unacceptable to remove the primary access route over the dam during an emergency. The safety route was laid out at a meeting with local officials and emergency officials. United Water was asked to provide comparative road elevations for local emergency services to evaluate, United Water agreed to supply such information, they never did.

January 18, 2011-(14 months later) elected officials were invited to a briefing with United Water, same design was presented, low flow output piping, no alternatives, 2009 concerns not addressed, only alternative by United Water was lowering Church Road.

February 28, 2011- Hillsdale informed DEP and United Water again, must have alternate design not lowering Church Road. Permit applications had been filed by United Water, No. 18, for alterations to the Woodcliff lake Dam, was invalid due to significant errors in the process, permit was invalid. No response.

November 7, 2011-DEP issued a permit, even though defective, with a letter requiring that United Water begin construction on or about May 7, 2012. In addition to the fact that during the permit process, Hillsdale did not receive timely notice of the defective permit approval.

January 10, 2012-Hillsdale Council authorized their Borough Engineer to formally advise United Water the project would require site plan approval from the Hillsdale Planning Board and that the DEP Permit was invalid until all local approvals were obtained. Again, no response.

January 23, 2012-Hillsdale Council authorized Borough Engineer to advise DEP of the multiple reasons why the permit is invalid and also why the project must obtain site plan approval from the Hillsdale Planning Board. Again, no response.

February 8, 2012-Hillsdale Council authorized Borough Attorney to file a formal appeal of the DEP Permit Decision. To date, Mr. MacLachlan is not aware of any formal response by DEP to the appeal, assuming it is in the hands of the N.J. Attorney General's Office for evaluation and response.

March 13, 2012-United Water Counsel wrote a lengthy response countering the Hillsdale Planning Board did not have legal authority to require site plan approval. United water offered to appear before the Hillsdale Planning Board, but only on pre-agreed condition that the Hillsdale Planning Board could not exercise any rights to change or add conditions of the Dam Rehabilitation Project plans submitted to the Hillsdale Planning Board.

April 2, 2012-Counsel for the Hillsdale Planning Board prepared and provided United Water Counsel with a detailed response informing counsel of the numerous legal bases for the Hillsdale Planning Board requiring site plan approval of the Dam Project.

To date, it is Mr. MacLachlan's understanding that United Water has refused to submit to the Jurisdiction of the Hillsdale Planning Board. In addition to that, United Water has not yet formally replied to the Hillsdale Planning Board letter of April 2, 2012 and that United Water is informally suggesting it may seek to go before the Board of Public Utilities rather than the Hillsdale Planning Board.

Mr. MacLachlan thanked the Mayor and Council for not entertaining "special deals" and for continuing to request the application to go through the proper channels and present to the Hillsdale Planning Board. Mr. MacLachlan stated "Mayors and Council members may come and go, Planning Board Members may come and go, Counsel may come and

go, the ones who remain are the Hillsdale and Westwood property owners, many of whom have their life's savings tied up in their homes, and it is the residents who the Mayor, Council and Planning Board members have sworn to protect and the law of Hillsdale they have sworn to uphold. Mr. MacLachlan thanked the Mayor and Council and Planning Board for protecting the residents regarding the Dam Construction project.”

Mayor Arnowitz stated again that he has no comment on the meeting of May 11, 2012 as he has not had the opportunity to update the Council, nor the Planning Board of the meeting.

ORDINANCES:

There were none.

RESOLUTIONS (Consent Agenda)

There were none.

DEPARTMENT REPORTS

There were none.

ADJOURNMENT:

On a motion by Councilmember Hanlon, seconded by Councilmember De Rosa, the meeting was adjourned at 7:55p.m. All in favor.

THE NEXT MEETING OF THE MAYOR AND COUNCIL WILL BE ON MONDAY, JUNE 4, 2012 BEGINNING AT 7:30 P.M.