

Township of South Hackensack
Bergen County, New Jersey
January 11, 2007 7:30 P.M.
Regular Meeting
AGENDA

Gary C. Brugger, Mayor
Walter Eckel, Jr., Deputy Mayor
James Anzevino
Gene Roman
Rosina Romano

David V. Nasta, Esq., Municipal Attorney
Linda LoPiccolo, Municipal Clerk

Call of Meeting to Order
Correspondence & Reports

- Monthly Department Reports – December & 2006 Annual

Old Business

- Sump Pump Discharge – Engineer
- Police Overtime – Chief Frew

New Business

Ordinances

Introduction of and set the date for public hearing

ORDINANCE NO. 2007-01

AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 108 OF THE CODE OF THE TOWNSHIP OF SOUTH HACKENSACK ENTITLED "FEE" SO AS ESTABLISH LEGAL SERVICE RATES FOR LAND USE BOARD APPLICANTS

Introduction of and set the date for public hearing

ORDINANCE No. 2007-02

"AN ORDINANCE AMENDING AND SUPPLEMENTING ARTICLE VI OF CHAPTER 208 OF THE CODE OF THE TOWNSHIP OF SOUTH HACKENSACK ENTITLED ZONING"

Resolutions

- Consent Resolution No. 2007-1(a)
- Resolution No. 2007-061 Authorizing The Settlement Of Certain Litigation Entitled Brando V. Township Of South Hackensack

Committee Reports

Public Comments

Closed Session

- Personnel – Domenick Brando

Adjournment

Consent Resolution No. 2007-1(a)

WHEREAS, the Township Committee of the Township of South Hackensack, has reviewed the Consent Agenda consisting of various proposed resolutions; and

WHEREAS, the Township Committee of the Township of South Hackensack is/is not desirous of removing a resolution from the consent agenda,

NOW, THEREFORE BE IT RESOLVED by the Township Committee of the Township of South Hackensack that the following resolutions on the Consent Agenda are hereby approved and adopted:

2007-051 Correct Previous Resolutions

2007-052 Redemption of Tax Sale Certificate No. 06-06 262-268 Green Street

2007-053 Settle and Resolve Litigation

2007-054 Appoint Sub-Committees

2007-055 Bills \$1,218,636.40

2007-056 Authorizing the Township Committee to Investigate the Feasibility of an Interlocal Service Agreement or Measures to Consolidate the Department of Public Works

2007-057 Cancellation of 2006 Sewer & Tax Overpayments

2007-058 Authorize Website – Phase II

2007-059 Authorizing Payment of Accumulated Unused Sick Time to Rosemarie Giotis

2007-060 Closed Session – Personnel Domenick Brando

Offered:

Second:

Roll Call Vote:

Date: January 11, 2007

Resolution No. 2007-051 Correct Previous Resolutions

WHEREAS in his correspondence dated December 13, 2006, Chief Frew recommended Joseph DePiero as a regular crossing guard for 2007 but his name was not listed on Resolution No. 2007-031 Appointing Crossing Guards, and

WHEREAS that same correspondence incorrectly omitted Maria Regan as a recommended crossing guard and has since been corrected by resubmission of that correspondence, and

WHEREAS Herbert “Butch” Walsh was incorrectly listed as an appointee on Resolution No. 2007-022 and should have been listed on Resolution No. 2007-010, and

WHEREAS Robert Serio should have been listed as the 1st Lieutenant of the South Hackensack Ambulance Corps,

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of South Hackensack, Bergen County, New Jersey the following:

1. Joseph DePiero be and he is hereby appointed as a regular crossing guard for 2007;
2. Herbert "Butch" Walsh be and he is hereby appointed to the Planning Board (Class IV member) for a 4-year term expiring December 31, 2010;
3. Robert Serio be and he is hereby appointed as 1st Lieutenant of the South Hackensack Ambulance Corps for the year 2007.

BE IT FURTHER RESOLVED that the clerk be and she is hereby directed to correct the errors/omissions in the corresponding resolutions that were previously adopted on January 1, 2007.

Consent Agenda Resolution No. 2007-01a

Date: January 11, 2007

Resolution No. 2007-052 Redemption of Tax Sale Certificate No. 06-06 262-268 Green Street
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WHEREAS, A&E Green Realty LLC c/o Hanson, owner of the property at 262-268 Green Street, commonly known as Block 52, Lot 2.04 has provided the moneys for redemption of Tax Sale Certificate No 06-06,

WHEREAS, the lienholder, Royal Tax Lien Services LLC has agreed to this amount,

NOW, THEREFORE BE IT RESOLVED, by the Township Committee of the Township of South Hackensack, County of Bergen that the redemption moneys of \$ 74.41 be paid to Royal Tax Lien Services, 179 Washington Lane, Jenkintown, PA 19046.

Consent Agenda Resolution No. 2007-01a

Date: January 11, 2007

Resolution No 2007-053 Settle and Resolve Litigation

WHEREAS, the Township of South Hackensack has been involved in litigation entitled Lighthouse Restaurant Services Inc and James Macagna v. Township of South Hackensack and Ronald Dario, Esq. the Municipal Prosecutor, BER L-3910-05 before the Honorable Jonathan N. Harris, J.S.C., which challenged the action of the Police Department in issuing violations against them under N.J.S.A. 2C: 33-27; its application and legality, its constitutionality and claims of violation of freedom of speech, the First Amendment and civil rights violations for themselves and their dancers; a challenge to legality and constitutionality of the Township of South Hackensack's Entertainment Licensing Ordinance; and, the actions of the Township in denying the renewal of the liquor license of the Plaintiffs; and,

WHEREAS, Judge Harris in ruling on a motion for summary judgment found that the alleged protected speech of the Plaintiffs was false speech and therefore unprotected under the U.S. Supreme Court decision in the matter of Central Hudson v. NY, U.S. Supreme Court, 1980 and no protections were afforded therein to the Plaintiffs; and, WHEREAS, the parties entered into discussions for settlement of all outstanding issues between the parties which resulted in a settlement agreement being placed upon the record in Court by all counsel and in the presence of the individual Plaintiff James Macagna and the Mayor Gary Brugger, on the following terms and conditions, predicated on the Plaintiffs paying to the Township the sum of \$45,000.00 as reimbursement for legal fees, litigation costs, enforcement expenses; and,

NOW THEREFORE BE IT RESOLVED, that the Township Committee of South Hackensack acknowledges payment and receipt of said monies and therefore does hereby approve the settlement on the terms and conditions set forth below and authorizes municipal officials to do all acts to carry the terms of this agreement as follows:

1. The Plaintiffs have previously and unconditionally paid to the Township of South Hackensack the sum of forty-five thousand dollars (\$45,000) as a condition precedent to the settlement and dismissal of this matter;
2. The Township of South Hackensack will dismiss all but one complaint filed by the South Hackensack Police Department for violations of N.J.S.A. 2C: 33-27 against James Macagna;
3. The single remaining complaint shall be amended to have the Defendant James Macagna substituted with the corporate Defendant Lighthouse Restaurant Services Inc. and the violation shall be amended to a violation of a Township of South Hackensack Municipal Ordinance, Sec. 158 Violation of the Peace and Good Order of the Township of South Hackensack, the Corporate Defendant shall plead guilty, and a recommendation by the Township of South Hackensack for the imposition of the minimal fine shall be made to the Court;
4. The Plenary Retail Consumption License 025933011004 of the Plaintiffs shall immediately be renewed and issued by the Township through June 30, 2007 without condition;
5. Plaintiffs shall immediately withdraw and dismiss with prejudice the appeal of the actions of the Township Committee with regard to the license to the New Jersey Division of Alcoholic Beverage Control, now pending in the Office of Administrative Law;
6. Plaintiffs counsel shall immediately notify and serve a copy of this order on the N.J. Department of Law and Public Safety, DAG Tamara Rudow who shall then dismiss their appeal of the order of the Honorable Jonathan N.Harris dated October 31, 2006.

7. Plaintiffs shall immediately remove and not display any signs or advertising on exterior of the building or visible from the exterior in the interior of the building now or in the future, however in accordance with a prior order of April 7, 2005, in the matter of Lighthouse Restaurant and Entertainment Inc. et al and South Hackensack, et al Ber-L-5025-04 and BER-L-12173-04 (copy attached hereto as Exhibit "A", under paragraph "K", Plaintiffs are permitted and may continue the one (1) free standing sign on the premises, limited to the terms of these orders;

8. Under the prior order of April 7, 2005 in Lighthouse Restaurant and Entertainment Inc. et al and South Hackensack, et al Ber-L-5025-04 and BER-L-12173-04, paragraph "E" of the prior order of April 7, 2005 is extended until June 30, 2007

9. Under the prior order of April 7, 2005 in Lighthouse Restaurant and Entertainment Inc. et al and South Hackensack, et al Ber-L-5025-04 and BER-L-12173-04, paragraph "F" of the prior order of April 7, 2005 is amended to correct the spelling error of prior counsel Ira Weiner, Esq., such that the unknown word "champagn" is replaced with the word "champagne"

10 Unless the plenary retail consumption license is reactivated and placed at this premises as a licensed premise, under the provisions of N.J.S.A. 2C:33-27 and the prior order of April 7, 2005 in Lighthouse Restaurant and Entertainment Inc. et al and South Hackensack, et al Ber-L-5025-04 and BER-L-12173-04, all consumption of beer, wine and malt beverages brought on the premises by patrons must be in fully observable and public areas of the building and premises;

11. Plaintiffs shall comply with all terms of the Township of South Hackensack Entertainment License Ordinance, 2006-15 and the time periods for application and compliance are extended until January 31, 2007,

12. All terms of the prior orders set forth herein and above remain in full force and effect, unless modified or changed herein;

13. Any violation of the terms of this order or the prior order may be enforced by a Motion in Aid of Litigants rights under R. 1:10-3;

14. The parties hereto shall after execution and filing of this Consent order and the occurrence of all events herein, prepare and file with the Court a Stipulation of dismissal with prejudice as to all matters pending before the Court and an exchange of mutual releases for subject matter of this litigation; and,

15. The Municipal Excess Liability Insurance Fund for the Township of South Hackensack has waived its claim for any reimbursement for any deductible under the policy of insurance where the Township is responsible for the payment of the first \$10,000.00 in legal fees for the carrier's legal counsel.

Consent Agenda Resolution No. 2007-01a

Date: January 11, 2007

Resolution No. 2007-054 Appoint Sub-Committees

BE IT RESOLVED by the Township Committee of the Township of South Hackensack that the following Sub-Committees be and are hereby formed and established for the Township Committee for the year 2007.

Sub-Committees:

Zoning	Walter Eckel, Jr.
.....	Gary Brugger
DPW Negotiations	Gene Roman
.....	James Anzevino
Police Chief Contract	Walter Eckel, Jr.
.....	Gary Brugger
DPW Facility Repair/Renovation	Rosina Romano
.....	Gene Roman
Senior Housing Project	James Anzevino
.....	Rosina Romano
Tax Settlement Committee	Rosina Romano
.....	James Anzevino
Redevelopment Advisory Board to Maser Consulting	
.....	John Falato
.....	William Regan
.....	Al D'Ambrosio
.....	Frank Cagas
.....	Walter Eckel, Jr.
.....	Gary Brugger

Consent Agenda Resolution No. 2007-01a

Date: January 11, 2007

Resolution No. 2007-055 Bills \$1,218,636.40

Resolution No. 2007-056 Authorizing the Township Committee to Investigate the Feasibility of an Interlocal Service Agreement or Measures to Consolidate the Department of Public Works

WHEREAS, the citizens of the State of New Jersey and the Township of South Hackensack are ever cognizant of the burden that property taxes places upon all taxpayers; and

WHEREAS, Governor Corzine and the New Jersey State Legislature have determined that the issue of property taxes is of such importance to the citizens of the State of New Jersey that a special constitutional convention and committees are being convened to address the problem; and

WHEREAS, it is expected that each governing body will take measures to analyze all aspects of its municipal government to determine whether and where efficiencies may be found; and

WHEREAS, it is anticipated in the future that State aid may be dependent upon municipal government taking actions such as consolidating its municipal services with other local governments; and

WHEREAS, the Township Committee has deemed it responsible and prudent to analyze all of its departments and services and has determined to begin with the Department of Public Works

NOW THEREFORE BE IT RESOLVED, by the Township Committee of the Township of South Hackensack that the Township Committee immediately orders the following actions to be undertaken;

1. That the committee appoint two of its members to a sub-committee to analyze and report back to the full committee within ninety (90) days various methods and options in which the Department of Public Works may be consolidated with or its services performed by neighboring municipalities by Interlocal service agreement and/or private industry.
2. That the sub-committee shall undertake in conjunction with its professionals and municipal staff an analysis of all costs to operate the department including but not limited to labor, benefits, equipment and building operations.
3. The sub-committee shall meet with and consult with the Superintendent of the Department of Public Work who shall assist in the analysis of information and options obtained by virtue of the directions set forth in Township Resolution 2006-140.

BE IT FUTHER RESOLVED that a copy of this resolution shall be provided to the Superintendent of the Department of Public Works.

Consent Agenda Resolution No. 2007-01a

Date: January 11, 2007

Resolution No. 2007-057 Cancellation of 2006 Sewer & Tax Overpayments

WHEREAS certain sewer user overpayments exist at year-end, and

<u>Block</u>	<u>Lot</u>	<u>Amount</u>
1.01	4.10	.06
2.01	4.02	.01
2.01	8.04	.01
3	23.03	.02
15	27	.06
38	2	.01
39	16 (1)	.01
44	4	.02
50	12	.01
58	1	.02

WHEREAS certain tax overpayments exist at year end,

<u>Block</u>	<u>Lot</u>	<u>Amount</u>
2.01	12.01	.01
2.02	5.02	.08
4	1	.01
7.01	25.04	.02
13.01	3.02	.01
15	7	1.12
54	1.01(C00A3)	.02
59	1.07	.01
59	1.08	.01

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of South Hackensack that the overpayments for sewer and taxes be cancelled.

Consent Agenda Resolution 07-01a

Date: January 11, 2007

Resolution No. 2007-058 Authorize Website – Phase II

WHEREAS the Township of South Hackensack has completed Phase I of the website, and

WHEREAS the Township of South Hackensack is desirous of implementing Phase II of the website that will offer an expansion of the existing site and will provide detailed information about township agencies, departments, and processes, and

WHEREAS the implementation of Phase II will encourage residents to volunteer to get involved in township activities; and

WHEREAS sections will be added for recreation, social programs and education; and

WHEREAS new residents will be welcomed by providing new resident information highlighting township services, and

WHEREAS funds are available for this purpose through a 2007 NJMC MAP Grant.

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of South Hackensack, County of Bergen, New Jersey that the clerk be and she is hereby authorized and directed to execute the necessary purchase order to 905 Creative for Phase II of the South Hackensack Website in an amount not to exceed \$7,000.

Consent Agenda Resolution 07-01a

Date: January 11, 2007

Resolution No. 2007-059 Authorizing Payment of Accumulated Unused Sick Time to Rosemarie Giotis
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WHEREAS Rosemarie Giotis has served as full time Tax Collector for the Township for over ten years; and

WHEREAS the salary ordinance of the Township of South Hackensack requires that upon separation a full time municipal employee with more than ten years of full time service is entitled to payment of accumulated sick time in the maximum amount of forty-five (45) days at a rate of pay at the time of separation; and

WHEREAS a review of the attendance records of Rosemarie Giotis indicate that she has accumulated a sick day bank of at least forty-five days and as a result would be entitled pursuant to salary ordinance for payment for the same upon separation as a full time employee; and

NOW THEREFORE BE IT RESOLVED, by the Township Committee of the Township of South Hackensack that Rosemarie Giotis be compensated for forty-five days of accumulated sick time at her daily rate of pay in effect on her separation date as a full time employee, and that appropriate funds are made available for said purpose.

Consent Agenda Resolution No. 2007-01(a)

Date: January 11, 2007

Resolution No. 2007-060 Authorizing Executive Session

A Resolution Providing for a Meeting Not Open to the Public in Accordance with the Provisions of the New Jersey Open Public Meetings Act, N.J.S.A. 10:4-12.

Whereas, the Township Committee of the Township of South Hackensack is subject to certain requirements of the *Open Public Meetings Act, N.J.S.A. 10:4-6*, et seq., and

Whereas, the *Open Public Meetings Act, N.J.S.A. 10:4-12*, provides that an Executive Session, not open to the public, may be held for certain specified purposes when authorized by Resolution, and

Whereas, it is necessary for the Township Committee of the Township of South Hackensack to discuss in a session not open to the public certain matters relating to the item or items authorized by N.J.S.A. 10:4-12b and designated below:

(1) *Matters Required by Law to be Confidential:* Any matter which, by express provision of Federal law or State statute or rule of court shall be rendered confidential or excluded from the provisions of the Open Public Meetings Act.

(2) *Matters Where the Release of Information Would Impair the Right to Receive Funds:* Any matter in which the release of information would impair a right to receive funds from the Government of the United States.

(3) *Matters Involving Individual Privacy:* Any material the disclosure of which constitutes an unwarranted invasion of individual privacy such as any records, data, reports, recommendations, or other personal material of any educational, training, social service, medical, health, custodial, child protection, rehabilitation, legal defense, welfare, housing, relocation, insurance and similar program or institution operated by a public body pertaining to any specific individual admitted to or served by such institution or program, including but not limited to information relative to the individual's personal and family circumstances, and any material pertaining to admission, discharge, treatment, progress or condition of any individual, unless the individual concerned (or, in the case of a minor or incompetent, his guardian) shall request in writing that the same be disclosed publicly.

(4) *Matters Relating to Collective Bargaining Agreements:* Any collective bargaining agreement, or the terms and conditions which are proposed for inclusion in any collective bargaining agreement, including the negotiation of the terms and conditions thereof with employees or representatives of employees of the public body.

(5) *Matters Relating to the Purchase, Lease or Acquisition of Real Property or the Investment of Public Funds:* Any matter involving the purchase, lease or acquisition of real property with public funds, the setting of banking rates or investment of public funds, where it could adversely affect the public interest if discussion of such matters were disclosed.

(6) *Matters Relating to Public Safety and Property:* Any tactics and techniques utilized in protecting the safety and property of the public, provided that their disclosure could impair such protection. Any investigations of violations of possible violations of the law.

X (7) *Matters Relating to Litigation, Negotiations and the Attorney-Client Privilege:* Any pending or anticipated litigation or contract negotiation in which the public body is, or may become a party. Any matters falling within the attorney-client privilege, to the extent that confidentiality is require in order for the attorney to exercise his ethical duties as a lawyer.

X (8) *Matters Relating to the Employment Relationship*: Any matter involving the employment, appointment, termination of employment, terms and conditions of employment, evaluation of the performance of promotion or disciplining of any specific prospective public officer or employee or current public officer or employee employed or appointed by the public body, unless all the individual employees or appointees whose rights could be adversely affected request in writing that such matter or matters be discussed at a public meeting.

 (9) *Matters Relating to the Potential Imposition of a Penalty*: Any deliberations of a public body occurring after a public hearing that may result in the imposition of a specific civil penalty upon the responding party or the suspension or loss of a license or permit belonging to the responding party bears responsibility.

Now, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of South Hackensack, assembled in public session on this date, that an Executive Session closed to the public shall be held in the South Hackensack Township Municipal Complex, 227 Phillips Avenue, South Hackensack, New Jersey, for the discussion of matters relating to the specific items designated above.

It is anticipated that the deliberations conducted in closed session may be disclosed to the public upon the determination of the Township Committee that the public interest will no longer be served by such confidentiality.

The foregoing resolution was duly adopted by the Township Committee of the Township of South Hackensack at a public meeting held on January 11, 2007.

Resolution No. 2007-061 Authorizing the Settlement of Certain Litigation Entitled Brando V. Township Of South Hackensack

WHEREAS, the Township of South Hackensack is currently a defendant in a certain matter entitled Brando v. Township of South Hackensack et.al. venued in the County of Bergen under Docket No.14475-04; and

WHEREAS, the Township Committee deems it to be in the best interest of the Township of South Hackensack to resolve the matter for nuisance value only; and

WHEREAS, the Township has been able to settle said matter at said value without a determination or admission of liability;

NOW THEREFORE BE IT RESOLVED, by the Township Committee of the Township of South Hackensack that the above captioned litigation be settled for the sum of \$10,000.00 without admission of any liability whatsoever and that the mayor and township clerk are hereby authorized to execute any and all documents acceptable in form and substance to the township attorney necessary to fully and finally settle said matter.

Date: January 11, 2007

Offered:

Second:

Roll Call Vote: