

February 24, 2011

A regular meeting of the Borough Council was held in the Municipal Building on February 24, 2011. The meeting was called to order at 8:51 p.m. by Mayor Barra, who announced that the requirements of the Open Public Meetings Act were met by the required posting and notice of publications.

The Mayor led those present in a salute to the flag.

The following Council members answered roll call: Mr. Bernstein, Mr. Schoepflin, Mr. Strauch, Mrs. White, Mrs. Wilczynski and Mayor Barra. Also present were Mrs. McCarthy and Mr. Bole.

### Minutes

Mrs. Strauch moved, seconded by Mrs. White, to approve the Work and Regular Session minutes from January 27, 2011 and the Work and Regular Session minutes from February 10, 2011. On roll call Mr. Bernstein and Mr. Strauch voted in favor. Mrs. White and Mr. Schoepflin voted in favor for the minutes of January 27 and abstained from the minutes of February 10. Mrs. Wilczynski abstained for the minutes of January 27 and voted in favor for the minutes of February 10.

### Public Hearing for Advertised Ordinances

Adoption of Ordinance 11-02

Mayor Barra opened the meeting to the public for comments on Ordinance 11-02. There were none.

Resolution 10-86 – Introduced by Mr. Schoepflin, seconded by Mrs. Wilczynski

**Be It Resolved** that an Ordinance entitled 11-02, “BOND ORDINANCE TO AUTHORIZE THE MAKING OF A PUBLIC IMPROVEMENT AND THE ACQUISITION OF NEW ADDITIONAL OR REPLACEMENT EQUIPMENT AND MACHINERY IN, BY AND FOR THE WATER UTILITY OF THE BOROUGH OF ALLENDALE, IN THE COUNTY OF BERGEN, STATE OF NEW JERSEY, TO APPROPRIATE THE SUM OF \$189,000 TO PAY THE COST THEREOF, TO FULLY OR PARTIALLY FUND APPROPRIATIONS FROM THE RESERVE FOR CAPITAL INFRASTRUCTURE, TO AUTHORIZE THE ISSUANCE OF BONDS TO FINANCE SUCH APPROPRIATION AND TO PROVIDE FOR THE ISSUANCE OF BOND ANTICIPATION NOTES IN ANTICIPATION OF THE ISSUANCE OF SUCH BONDS” be passed upon second and final reading and that the Borough Clerk be and she is hereby authorized and directed to advertise the same according to law.

On roll call, all Council members voted in favor.

(See copy of Ordinance 11-02, attached and made a part hereof.)

Introduction of Ordinances

Introduction of Ordinance 11-01

Resolution 11-87 – Introduced by Mrs. White, seconded by Mrs. Wilczynski

**Be It Resolved** that an Ordinance entitled 11-01, “BOND ORDINANCE TO AUTHORIZE THE MAKING OF VARIOUS PUBLIC IMPROVEMENTS AND THE ACQUISITION OF NEW ADDITIONAL OR REPLACEMENT EQUIPMENT AND MACHINERY, NEW COMMUNICATION AND SIGNAL SYSTEMS EQUIPMENT, NEW INFORMATION TECHNOLOGY EQUIPMENT AND NEW AUTOMOTIVE VEHICLES, INCLUDING ORIGINAL APPARATUS AND EQUIPMENT, IN, BY AND FOR THE BOROUGH OF ALLENDALE, IN THE COUNTY OF BERGEN, STATE OF NEW JERSEY, TO APPROPRIATE THE SUM OF \$810,200 TO PAY THE COST THEREOF, TO MAKE A DOWN PAYMENT, TO AUTHORIZE THE ISSUANCE OF BONDS TO FINANCE SUCH APPROPRIATION AND TO PROVIDE FOR THE ISSUANCE OF BOND ANTICIPATION NOTES IN ANTICIPATION OF THE ISSUANCE OF SUCH BONDS” heretofore introduced, does now pass on first reading, and that said ordinance be further considered for final passage at a meeting to be held on the 10<sup>th</sup> day of March, 2011, at 8:00 p.m. or as soon thereafter as the matter can be reached, at the regular meeting place of the Borough Council, and that at such time and place all persons interested be given an opportunity to be heard concerning said ordinance, and that the Borough Clerk is hereby authorized and directed to publish said ordinance according to law with a notice of its introduction and passage on first reading and of the time and place when and where said ordinance will be further considered for final passage.

On roll call, all Council members voted in favor.

(See copy of Ordinance 11-01, attached and made a part hereof.)

Introduction of Ordinance 11-03

Resolution 11-88 – Introduced by Mrs. White, seconded by Mrs. Wilczynski.

**Be It Resolved** that an ordinance entitled: “An Ordinance to Accept Nadler Court as a Public Street in the Borough of Allendale, County of Bergen, State of New Jersey” heretofore introduced, does now pass on first reading, and that said ordinance be further considered for final passage at a meeting to be held on the 10<sup>th</sup> day of March, 2011, at 8:00 p.m. or as soon thereafter as the matter can be reached, at the regular meeting place of the Borough Council, and that at such time and place all persons interested be given an opportunity to be heard concerning said ordinance, and that the Borough Clerk is hereby authorized and directed to publish said ordinance according to law with a notice of its

introduction and passage on first reading and of the time and place when and where said ordinance will be further considered for final passage.

On roll call, all Council members voted in favor.

Mrs. White moved, seconded by Mrs. Wilczynski to remove Resolution 11-93 from the Consent Agenda. On roll call, all Council members voted in favor.

Resolution 11-93 – Introduced by Mr. Strauch, seconded by Mr. Schoepflin

**Whereas**, quotations have been received for snow removal from sidewalks and landscape property maintenance matters;

**Whereas**, the Chief Financial Officer has attached a certification that adequate funds are available to pay for the contract;

**Now, Therefore, Be It Resolved** by the Governing Body that a contract be awarded to Borst Landscape and Design of Allendale, New Jersey and Jacobsen Landscaping of Midland Park, New Jersey in accordance with their proposal attached hereto;

**Be It Further Resolved** that the contracts are hereby awarded based upon the quotations being most advantageous, price and other factors considered;

**Be It Further Resolved** that the Mayor is authorized to sign the proposal on behalf of the Borough.

On roll call, all Council members voted in favor.

Resolution 11-89 – Introduced by Mr. Strauch, seconded by Mrs. Wilczynski

**Now, Therefore, Be It Resolved** by the Mayor and Council of the Borough of Allendale, County of Bergen, State of New Jersey, that it hereby approves the Bill List dated February 24, 2011.

On roll call, all Council members voted in favor.

Resolution 11-90 – Introduced by Mr. Strauch, seconded by Mrs. Wilczynski

**WHEREAS**, an emergent condition has arisen with respect to certain budget appropriations and no adequate provision has been made in the 2011 Temporary Budget, and N.J.S.A. 40A: 4-20 provides for the creation of emergency temporary appropriations for said purpose; and

**NOW, THEREFORE BE IT RESOLVED** by the Mayor and Council of the Borough of Allendale that in accordance with the provisions of N.J.S.A. 40A: 4-20;

1. An emergency temporary appropriation be and the same is hereby made in the total amount of:

<b>Current Fund</b>	
Insurance – other	\$4,000
Crestwood, O.E.	\$4,000
Capital Improvement Fund	\$38,600

2. That said emergency temporary appropriation will be provided in the 2011 budget;
3. That one certified copy of this resolution be filed with the Director of Local Government Services.

On roll call, all Council members voted in favor.

Resolution 11-91 – Introduced by Mr. Strauch, seconded by Mrs. Wilczynski

**Be It Resolved** by the Council of the Borough of Allendale that the Tax Collector is hereby authorized to issue the following check on the property listed below and charge same to Overpayment of 2011 Taxes:

<u>Block/ Lot</u>	<u>Name</u>	<u>Property Location</u>	<u>Amount</u>
1406/9	McLean, Douglas F. & DeParis, Marie 40 Stonefence Road Allendale, NJ 07401	40 Stonefence Rd	\$4,214.65

On roll call, all Council members voted in favor.

Resolution 11-92 – Introduced by Mr. Strauch, seconded by Mrs. Wilczynski

**Whereas**, Barbara Nowak is the owner of real estate known as Lot 15, Block 104 and better known as 20 Fairhaven Drive, Allendale, NJ; and

**Whereas**, the owner has filed a 2009 added assessment appeal and 2010 State Tax Court appeal; and

**Whereas**, Lot 15 in Block 104 received an added assessment for 12 months of \$148,400 pro rated for 8 months for a prorated added assessment of \$98,933; and

**Whereas**, the original total assessment for 2010-2011 was \$1,230,300; and

**Whereas**, the Borough has completed full discovery with respect to this matter, has consulted with the Borough’s Appraiser, Charles Ciolino, and has conducted negotiations with counsel for the taxpayer; and

**Whereas**, the parties have been able to arrive upon a proposed settlement such that the added assessment appeal prorated for 8 months is affirmed in the amount of \$98,933 based upon a 12 month improvement of \$148,400; and

**Whereas**, the taxpayer has further agreed to affirm the 2010 assessment of \$1,230,300 in consideration for which the 2011 assessment will be set at \$1,081,900; and

**Whereas**, the parties have agreed that prejudgment interest, if any, shall be waived as a condition of the settlement; and

**Whereas**, the Borough's Tax Assessor, Angela Mattiace, and its real estate consultant are in agreement with the terms of the settlement and believe it would be in the best interest of the Borough to settle this particular case in accordance with the terms set forth above;

**Now, Therefore, Be It Resolved** that the Governing Body of the Borough of Allendale agrees to authorize the Municipal Attorney to execute a Stipulation of Settlement on behalf of the Borough with respect to the Nowak v. Allendale tax appeal pending in the Tax Court of New Jersey for the tax years 2009-2010 under docket numbers 001112-2010 and 006558-2010 based upon the terms set forth above; and

**Be It Further Resolved** that upon receipt of the Tax Court Judgment that the Tax Collector is authorized to calculate the amount of the refund and cause same to be paid to the taxpayer, without statutory interest, within sixty (60) days from the date of the Tax Court Judgment;

**Be It Further Resolved** that this settlement is subject to agreement and acceptance thereof by the taxpayer;

**Be It Further Resolved** that copies of this Resolution are to be provided to the Municipal Clerk, the Borough Chief Financial Officer, Borough Tax Assessor, Borough Tax Collector and the Municipal Attorney.

On roll call, all Council members voted in favor.

Resolution 11-94 – Introduced by Mr. Strauch, seconded by Mrs. Wilczynski

**Whereas**, Sanford Freeman and Susan Freeman executed a Deed of Dedication, dated November 10, 2006 to the Borough of Allendale for road widening purposes of the roadway known as Chestnut Street within the Borough;

**Whereas**, said Deed was duly recorded in the office of the Bergen County Clerk on December 22, 2006 in Deed Book 09217 at page 184, et seq.

**Now, Therefore, Be It Resolved** by the Governing Body that it does hereby accept said Deed of Dedication;

**Be It Further Resolved** that the Municipal Clerk shall retain said Deed as part of the permanent real estate registry of the Borough.

On roll call, all Council members voted in favor.

Resolution 11-95 – Introduced by Mr. Strauch, seconded by Mrs. Wilczynski

**Whereas**, bids were received on February 8, 2011 for the Janitorial Service Contract;

**Whereas**, five bids were received;

**Whereas**, the bid documents have been reviewed and it has been determined that the bid of Maverick Building Services of Newark, New Jersey is the lowest responsible, responsive bidder;

**Whereas**, the Chief Financial Officer has attached hereto a Certification that adequate funds have been budgeted to pay for the contract;

**Now, Therefore, Be It Resolved** by the Governing Body that it does hereby award a Janitorial Services Contract to Maverick Building Services of Newark, New Jersey for a term of one year commencing March 1, 2011 to February 28, 2012 in the base amount of \$30,000 per year with the Borough's exclusive option to extend the contract for up to two (2) one year periods all in accordance with the bid specifications;

**Be It Further Resolved** that the Mayor and Municipal Clerk are authorized to sign a contract with Maverick Building Services following legal review.

On roll call, all Council members voted in favor.

Resolution 11-96 – Introduced by Mr. Strauch, seconded by Mrs. Wilczynski

**Whereas**, the Allendale Volunteer Fire Department desires to apply for and obtain grants from FEMA, Homeland Security and SAFER to better assist and protect the residents of the Borough of Allendale, and

**Whereas**, in order to obtain such grants it is necessary for the Borough of Allendale and the Fire Department to execute documents needed for the completion and submission of such applications,

**Now, Therefore, Be It Resolved** by the Mayor and Council of the Borough of Allendale that it does hereby endorse and encourage the completion and submission of applications by the Allendale Volunteer Fire Department in the pursuit of grants from FEMA, Homeland Security and SAFER.

On roll call, all Council members voted in favor.

Resolution 11-97 – Introduced by Mr. Strauch, seconded by Mrs. Wilczynski

**Whereas**, the Borough of Allendale desires to constitute the 2011 Temporary Capital Budget of said municipality by inserting therein the following project.

**Now, Therefore, Be It Resolved** by the Council of the Borough of Allendale as follows:

Section 1. The 2011 Temporary Capital Budget of the Borough of Allendale is hereby constituted by the adoption of the schedule to read as follows:

Project	Temporary Capital Budget of the Borough of Allendale County of Bergen, New Jersey Projects Scheduled for 2011 Method of Financing				
	Estimated Costs	Other Funds	Capital Imp. Fund	Bonds	Self Liquidating Bonds
Various Capital Improvements	810,200		38,600	771,600	
Various Water Utility Capital Improvements	189,000	107,000			82,000

On roll call, all Council members voted in favor.

Committee Reports

Public Safety

Mr. Bernstein did not have a report.

Public Works

Mrs. White thanked Mr. Cauwenberghs and the DPW who were on holiday on Monday when it snowed. She stated that the crew that came in not only pulled their weight but much more.

Mr. Barra added his thanks to Mr. Cauwenberghs.

Land Use and Construction Code

Mr. Strauch said the next meeting of the Land Use Committee will be Friday, March 4<sup>th</sup> at Borough Hall.

### Water, Sewer and Public Utilities

Mr. Schoepflin said a meeting of the Water, Sewer and Public Utilities Committee will be scheduled in the near future.

### Administration, Finance and Personnel

Ms. LaMonica was absent.

### Facilities, Parks and Recreation

Mrs. Wilczynski said there will be a meeting of the Facilities Committee next week.

### Municipal Attorney

Mr. Bole did not have a report

### Municipal Clerk/Administrative Officer

Mrs. McCarthy stated that Mrs. Manus' daughter and son in law have been in the process of adopting a special needs child from overseas and this week they did. Mrs. Manus will be away from work for about three weeks to care for her older granddaughter. The baby and her new family are beautiful.

Mr. Barra added that he has seen the baby's photographs and she is absolutely precious.

Mr. Bernstein stated that he had to leave before the public comments.

Mr. Barra opened the meeting to the public for comments on any topic.

Mr. Dave Duffy of 46 Knollton Road said he had a recommendation for the resolution on snow removal and landscaping. His idea is to go back to the three contractors with more specific criteria, ask them to rebid and then accept the lowest bid.

Mr. Duffy said he has stayed away from Council meetings because he was upset with the paving done on Knollton Road in December. A year ago this month he was told his house would be getting asphalt curbing. He tried to resolve the issue on a one-on-one basis before coming to a Council meeting. He was then told that the Engineer had recommended concrete curbing, not asphalt. Later he was told there would be no curbing at all because there was a way to drain Knollton Road without curbs. In December the road was paved with anthracite curbs. He said there was not consistent action and asked how the issue returned to asphalt curbs.

Mr. Barra said asphalt curbs weren't installed, only broken curbing was repaired and recoated. The Borough did not pay for asphalt curbs. He had asked the Borough Engineer if the asphalt curbing had been replaced because it looked to him like a new

asphalt curb had been installed which would have been contrary to the Borough's instructions. He was advised by the Borough Engineer that parts of the curbing had been replaced by the contractor because portions of the curb had broken away during milling, and then the remaining curbing was coated. Mr. Barra reiterated that the contractor was not instructed to put in curbs and they were not paid for. He said if the existing asphalt curbing was replaced it was done contrary to the Borough's instructions which were to mill and not to touch the existing asphalt curbs. The contractor was also told to put in new drain basins and to slope the road to draw the water away from Mr. Duffy's house and other houses. Mr. Barra was told by the Borough Engineer that is what was done.

Mr. Duffy responded that there are asphalt curbs on his street that look drastically different than before. He asked the Council members to go to his road and take a look at what is there.

Mr. Schoepflin said the Borough would have been charged if there had been changes to the asphalt curbing. After further discussion with Mr. Duffy he agreed to go to Mr. Duffy's property and look at the curbs.

Mr. Duffy said there is another situation on his property that was caused by the contractor who ran a line from the main on the other side of Knollton Road onto his property. A trench was dug one day in July, the connection was made and the trench was backfilled. Torrential rains followed on August 22<sup>nd</sup> and water came down the street and went over his stone wall. It has cost him \$8,506.75 to correct a problem caused by the contractor. Damage was done to his finished basement which required repairs and repainting. A contractor had to pull back his wall to wall carpeting and padding.

Mr. Schoepflin asked if Mr. Duffy's insurance company said the contractor had caused these problems. Mr. Duffy said he doesn't have flood insurance and doesn't have access to it. Mr. Duffy said he would like to sit down with the Committee and the Engineer to review what has happened on specific dates. Mr. Duffy said the contractor did a bad job and it caused all his problems. Now every time it rains he has water in his basement.

Mr. Barra said Mr. Duffy's attorney previously contacted the Borough Attorney. Mr. Duffy's attorney who lives in town saw the Borough Engineer and commented to him about this situation. The Borough Engineer called Mr. Barra on a Saturday. Mr. Barra said he instructed the Borough Engineer to go to Mr. Duffy's home, speak with him and make an evaluation. The Borough Engineer told Mr. Barra he did not feel there was a problem with the contractor.

Mr. Duffy said he was told there was a problem with the contractor.

Mr. Barra said a problem with a contractor doesn't happen very often but it does happen. If the Borough Engineer believes there is a problem with the contractor then a claim should be filed against him. The Council doesn't get involved with issues of contractor negligence on the job. A claim can be brought under the terms of the contract, however.

The Engineer needs to determine if there was negligence on the part of the contractor. If he makes a decision that there was not negligence, then there is no purpose in looking at the damage or the photographs.

Mr. Duffy asked if Mayor Barra would speak to Mr. Yakimik and ask him make a determination if the contract was breeched. He said the only money he received from the insurance company was for the original section of the wall that collapsed. He was given a check from his insurance company in the amount of \$1200 after an adjustor came to his property.

Mr. Barra asked if Mr. Duffy repaired the damage to his house that was allegedly caused by the contractor, and if a claim for that damage was submitted to Mr. Duffy's insurance company. Mr. Duffy said he couldn't submit a claim because he doesn't have flood insurance. Mr. Barra responded that if damage was caused by contractor negligence that would not be a flooding issue but a manmade problem. He added that generally if there is negligence on the part of a contractor, the individual's homeowner's insurance would pay for the damage and then go after the contractor.

Mr. Barra said he would speak to Mr. Yakimik directly in the morning. He will tell the Engineer that Mr. Duffy said he was told by Mr. Yakimik that the contractor caused the water damage to Mr. Duffy's basement.

On a motion by Mr. Strauch, seconded by Mrs. Wilczynski, the Council voted unanimously to adjourn at 9:20 p.m.

Respectfully submitted,

Gwen McCarthy  
Municipal Clerk