

December 29, 2011

A regular meeting of the Borough Council was held in the Municipal Building on December 8, 2011. The meeting was called to order at 8:02 p.m. by Mr. 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, Ms. LaMonica, Mr. Schoepflin, Mrs. White, Mrs. Wilczynski and Mayor Barra. Mr. Strauch was absent. Also present were Mrs. McCarthy and Mr. Bole.

Minutes

Mrs. White moved, seconded by Mr. Schoepflin, to approve the minutes of December 8, 2011. All Council members voted in favor.

Public Comment

Mr. Barra opened the meeting to the public for comments.

There were none.

Presentation of Proclamations, Petitions and Other Communications

Mr. Barra said he loves doing proclamations and the one he is doing tonight gives him a great deal of pleasure. He described Mr. Schoepflin as the consummate gentleman who has brought class and dignity to the Council. He stated that no one will be able to replace Mr. Schoepflin who has given so many years to the Council and to the town. Mayor Barra read the following proclamation:

Proclamation in Honor of Robert Schoepflin

Whereas, Robert Schoepflin received a B.S. in Business Administration from Lehigh University and attended advanced training at Harvard, the University of Virginia and the University of Southern California, and

Whereas, he served in executive positions for American Cyanamid Company, Union Camp Corporation and ConAgra, and

Whereas, he brought his talents to the Borough of Allendale when he and his family became residents in 1969, and

Whereas, Bob served on the Board of Education for Northern Highlands High School from 1976 to 1985 and was the President of the Board in 1979,

Whereas, Robert Schoepflin was a member of the Planning Board From January 1999 through December 2006, and

Whereas, Robert Schoepflin served on the Borough Council From January 1997 through December 2011 and during his tenure served on every Committee of the Council,

Whereas, Bob was Chairman of the Land Use Committee For ten years and of the Water, Sewer and Public Utilities Committee for five years, and

Whereas, Bob has been the President of the Council for nine years, and

Whereas, Bob made significant contributions as a Board member for both Senior Housing and Orchard Commons Special Needs Housing.

Now, Therefore, Be It Resolved that I, Mayor Vince Barra on behalf of the Council, thank Robert Schoepflin for the many important contributions he has made to both education and government in the Borough of Allendale.

Be It Further Resolved that his advice will always continue to be welcome and solicited by the Mayor and Council, and the words “Don’t be a stranger” have never been more true.

Mayor Vince Barra

Mrs. McCarthy read the following resolution into the record.

Resolution 11-340 – Introduced by Mrs. White, seconded by Ms. LaMonica

Whereas, Councilman Robert Schoepflin has served as a member of the Governing Body, commencing January 1997 and, during that time has served on every committee of the Council; and

Whereas, in recognition of his exemplary service the Mayor and Council wishes to designate the West entrance to Crestwood Lake as “Schoepflin Way” which is more particularly described as follows:

“A wooded footpath servicing Crestwood Lake Park from Cedar Drive, said footpath extending approximately 400 feet southeasterly from the eastern terminus of Cedar Drive to open recreation fields within the park”;

Now, Therefore, Be It Resolved by the Governing Body that it does hereby designate the foregoing footpath as “Schoepflin Way”; and

Be It Further Resolved that a suitable sign identifying the entrance way be installed; and

Be It Further Resolved that a certified copy of this resolution be provided to Councilman Robert Schoepflin.

On roll call all Council members voted in favor.

Mr. Schoepflin expressed his appreciation to the current Council members and all the other Council members he served with previously. He said he remembers that when he first came on the Council the other Councilmen worked in New York, got off the train and came straight to a Council meeting. Most of the work was done by employees of the Borough. Over a period of time there has been a significant change. Allendale is now fortunate to have four capable women who will be on the Council and will provide an interesting balance to its membership.

Mr. Schoepflin said he would like the Finance Committee to consider some sort of compensation to the members of the Council in the future. There has been a dramatic change in the number of hours all the participants give to the town, which go well beyond attending Council meetings and it would be good to have them compensated in some way.

Mr. Schoepflin thanked everyone for the support they have shown him.

Mrs. Wilczynski moved, seconded by Mrs. White, to remove Resolution 11-344 from the Consent agenda to be voted on separately. On roll call, all Council members voted in favor.

Mr. Barra asked that a note be made in the minutes to refer people to the Work Session agenda for the comments made earlier about the approval of the Interlocal County Board of Health Agreement.

Resolution 11-344 – Introduced by Ms. LaMonica, seconded by Mr. Schoepflin

Whereas, there is a need for professional and technical health services in the Borough of Allendale, and

Whereas, the County of Bergen is able to provide health services as mandated by the Public Health Council; and

Whereas, the County of Bergen has agreed to provide sanitarian services, flu clinic, senior health programs and other health activities for a total cost of \$34,631.00 for all services; and

Whereas, the Chief Financial Officer has certified that there are sufficient funds available for this contract;

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 contract between the Borough of Allendale and Bergen County, and

Be It Further Resolved, that the Mayor and Municipal Clerk be and they are hereby authorized to sign said contract.

On roll call, Mr. Bernstein, Mr. Schoepflin and Ms. LaMonica voted in favor. Mrs. White and Mrs. Wilczynski voted against the resolution.

Consent Agenda

Resolution 11-341 – Introduced by Ms. LaMonica, 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 December 29, 2011.

On roll call, all Council members voted in favor.

Resolution 11-342 – Introduced by Ms. LaMonica, seconded by Mrs. Wilczynski

Now, Therefore, Be It Resolved that the Mayor and Council of the Borough of Allendale, County of Bergen, State of New Jersey, that it hereby authorizes the Mayor and Municipal Clerk to sign an Interlocal Court Agreement with the Borough of Ho-Ho-Kus.

On roll call, all Council members voted in favor.

Resolution 11-343 – Introduced by Ms. LaMonica, seconded by Mrs. Wilczynski

Whereas, the Utility Payer listed below has been found to have their utility bill reduced by the amount shown, and

Whereas, this adjustment is due to an estimated bill, incorrectly reported water usage or an incorrect reading, and

Now, Therefore, Be It Resolved by the Council of the Borough of Allendale that this adjustment be granted, with no money refunded, to the following utility bill payer:

Name	Account	Amount
R. Kukura	#3104-0	\$111.75

On roll call, all Council members voted in favor.

Resolution 11-345 – Introduced by Ms. LaMonica, 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 the following individual is appointed as a Seasonal employee:

Name	Department	Appointment Date	Salary
Joe Burns	DPW	December 20, 2011	\$10.50/hour

On roll call, all Council members voted in favor.

Resolution 11-346 – Introduced by Ms. LaMonica, seconded by Mrs. Wilczynski

Whereas, the following Water Utility Operating Fund budget appropriation balances remain unexpended:

Salaries and Wages	\$ 50,000.00
Health Benefits	22,000.00
Water Purchase	48,000.00
Social Security	<u>4,000.00</u>
Total	\$124,000.00

Whereas, it is necessary to formally cancel said balances so that the unexpended balances may be credited to Surplus;

Now, Therefore, Be It Resolved by the Council of the Borough of Allendale, that the above listed balances of the Water Utility Fund are hereby canceled.

On roll call, all Council members voted in favor.

Resolution 11-347 – Introduced by Ms. LaMonica, seconded by Mrs. Wilczynski

Whereas, the Borough of Allendale (hereinafter referred to as the “Employer”) by resolution adopted a Deferred Compensation Plan (hereinafter referred to as the “Plan”) effective June 28, 2001 for the purpose of making available to eligible employees the accrual of tax benefits under a Section 457 Deferred Compensation Plan; and

Whereas, the Employer by resolution retained The Variable Annuity Life Insurance Company (“VALIC”) as the contractor under the Deferred Compensation Plan and executed a Service Agreement with said contractor; and

Whereas, the final Internal Revenue Code (“Code”) Section 415 regulations, Pension Protection Act of 2006 (“PPA”), the Heroes Earnings Assistance and Tax Relief Act of 2008 (the “HEART Act”) and the Worker, Retiree and Employer Recovery Act of 2008 (“WRERA”) amended Section 457 of the Code; and

Whereas, State and local governmental Section 457(b) plan sponsors must amend their plans to comply with the PPA legislative changes by the last day of the 2011 plan year;

Whereas, the Employer desires its Plan to conform with the changes in the Code; and

Whereas, the Employer desires to adopt an amended and restated Plan that conforms with the changes in the Code; and

Whereas, such amended and restated Plan shall supersede the previously adopted Plan;

Now, Therefore, Be It Resolved, that the Employer does hereby adopt the amended and restated Plan prepared by VALIC and assigned Plan Document identifier 81-PD-VALIC-103111 by the Director of the Division of Local Government Services.

On roll call, all Council members voted in favor.

Resolution 11-348 – Introduced by Ms. LaMonica, seconded by Mrs. Wilczynski

Whereas, the Borough of Allendale (hereinafter referred to as the “Employer”) by resolution adopted a Deferred Compensation Plan (hereinafter referred to as the “Plan”) effective June 28, 2001, for the purpose of making available to eligible employees the accrual of tax benefits under a Section 457 Deferred Compensation Plan; and

Whereas, the Employer by resolution retained The Nationwide Retirement Services Inc. (“Nationwide”) as the contractor under the Deferred Compensation Plan and executed a Service Agreement with said contractor; and

Whereas, the final Internal Revenue Code (“Code”) Section 415 regulations, Pension Protection Act of 2006 (“PPA”), the Heroes Earnings Assistance and Tax Relief Act of 2008 (the “HEART Act”) and the Worker, Retiree and Employer Recovery Act of 2008 (“WRERA”) amended Section 457 of the Code; and

Whereas, State and local governmental Section 457(b) plan sponsors must amend their plans to comply with the PPA legislative changes by the last day of the 2011 plan year;

Whereas, the Employer desires its Plan to conform with the changes in the Code; and

Whereas, the Employer desires to adopt an amended and restated Plan that conforms with the changes in the Code; and

Whereas, such amended and restated Plan shall supersede the previously adopted Plan;

Now, Therefore, Be It Resolved, that the Employer does hereby adopt the amended and restated Plan prepared by Nationwide and assigned Plan Document identifier Borough of Allendale002226001 by the Director of the Division of Local Government Services.

On roll call, all Council members voted in favor.

Resolution 11-349 – Introduced by Ms. LaMonica, seconded by Mrs. Wilczynski

Whereas, the Borough has granted certain construction permits to property owners located at 101 Donnybrook Drive, known as Lot 4, Block 1101, on the Borough Tax Map;

Whereas, the permitted construction requires certain improvements including the installation of an approximately 6” (six inch) drainage pipe within a portion of the Boroughs right-of-way which fronts adjacent property at Lot 3, in Block 1101;

Whereas, it is reasonable and appropriate to have a “Property Agreement” executed between the owners of the aforesaid properties and the Borough to memorialize the terms and conditions of the installation and maintenance of improvements in the Borough right-of-way;

Now, Therefore, Be It Resolved by the Governing Body that the Property Agreement aforesaid, substantially in the form on file with the Office of the Municipal Clerk, is hereby approved and the Mayor and Municipal Clerk are authorized to execute same on behalf of the Borough following legal review.

On roll call, all Council members voted in favor.

Resolution 11-350 – Introduced by Ms. LaMonica, seconded by Mrs. Wilczynski

Whereas, Allendale Associates is the owner of real estate known and described as follows:

- 40 Boroline Road, Block: 702, Lot: 14
- 110 Commerce Drive, Block: 601, Lot: 1
- 88 Commerce Drive, Block: 601, Lot: 2
- 50 Commerce Drive, Block: 601, Lot: 3
- 90 Boroline Road, Block: 702, Lot: 15
- 25 Commerce Drive, Block: 601, Lot: 16;

Whereas, Allendale Associates has filed tax appeals challenging the assessment for the years 2009, 2010 and 2011;

Whereas, the original aggregate assessment for the properties aforesaid for the years under appeal was \$38,855,000 as more specifically allocated to each block and lot set forth on the schedule attached hereto;

Whereas, the Borough has completed full discovery with respect to this matter, has consulted with the Borough's appraiser, Louis Izenberg, and has conducted exhaustive negotiations with Counsel for the taxpayer;

Whereas, the parties have been able to arrive upon a proposed settlement as follows:

1. The taxpayer shall withdraw its 2009 appeal; and
2. There would be a revised aggregate assessment on the aforesaid properties of \$27,007,062 for the year 2010 which assessment is more specifically allocated to each lot and block on the schedule attached hereto; and
3. There would be a revised aggregate assessment on the aforesaid properties of \$28,365,885 for the year 2011 allocated to each block and lot on the schedule attached hereto;

Whereas, the parties have agreed that prejudgment interest shall be waived as a condition of the settlement provided that the 2010-2011 refund is paid in full not later than April 15, 2012 and further provided that the Tax Court Judgment has been received at least twenty (20) days prior to payment. In the event that the refund is not so paid, post judgment interest would accrue from and after April 15, 2012 until paid in full. In the event that the Tax Court Judgment is not received by April 15, 2012, the Borough shall not be obligated to pay the refund until twenty (20) days after the judgment is received, which payment shall be without interest provided, however, that if payment is not made within the time as provided herein, post judgment interest shall accrue following such twenty (20) day period;

Whereas, the Borough's Tax Assessor, Angela Mattiace, and the Borough's Real Estate Appraiser, Louis Izenberg are in agreement with the terms of this settlement and believe that it would be in the best interest of the Borough to settle this particular matter 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 of Allendale with respect to the Allendale Associates v. Allendale tax appeal pending in the Tax Court of New Jersey for the tax years 2009, 2010 and 2011 under docket numbers 001087-2009, 000964-2010 and 013682-2011 at the new assessments set forth above; and

Be It Further Resolved that upon receipt of the Tax Court Judgment that the Tax Collector is hereby authorized to calculate the amount of the refund and cause same to be paid to the taxpayer in accordance with the terms set forth above; and

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

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

On roll call, all Council members voted in favor.

Resolution 11-351 – Introduced by Ms. LaMonica, seconded by Mrs. Wilczynski

Whereas, N.J.S.A. 59-4-6 provides in pertinent part that neither the public entity nor a public employee is liable for an injury caused by the plan or design of public property or any improvement thereto where the plan or design was approved in advance of construction by the Borough of Allendale or a public employee exercising discretionary authority on its behalf or where such plan or design was prepared in conformity with standards previously approved by the Borough of Allendale through its Municipal Engineer; and

Whereas, the following improvement to public property has been designed by David A. Hals, P.E., which plan and design has been approved by John Yakimik, P.E., Municipal Engineer; and

Whereas, the Borough of Allendale wishes to record its approval of said design.

Now, Therefore, Be It Resolved by the Borough of Allendale, County of Bergen, State of New Jersey as follows:

1. Plans and specifications entitled “Off-site drainage plan, Block 1101-Lot 3, 85 Donny Brook Drive, Borough of Allendale, Bergen Co., N.J.” dated December 1, 2011, prepared by David A. Hals, P.E. of Schwanewede/Hals of Oakland, N.J. and “Off-site Drain Profile and Details, Block 1101-Lot 4, 101 Donny Brook Drive for Robert Kossar, Borough of Allendale, Bergen Co., N.J.” prepared by Schwanewede/Hals Engineering, dated September 7, 2011 are hereby approved.
2. Upon the completion of the improvements described hereinabove, the Municipal Engineer shall inspect said improvements and certify to the Borough, that said improvement has been constructed in accordance with the above referenced plans.
3. The Municipal Clerk shall archive this Resolution in a manner consistent with the purpose of perpetually documenting governmental immunity in the event of any claim based upon the plan, design or construction of the improvement.

On roll call, all Council members voted in favor.

Resolution 11-352 – Introduced by Ms. LaMonica, seconded by Mrs. Wilczynski

Whereas, the Borough of Allendale seeks to enter into an Interlocal Agreement with the Village of Ridgewood for the purpose of accessing teleconferencing equipment and services for the purpose of arraigning prisoners;

Whereas, N.J.S.A. 40:8A-1, et seq, authorizes local units of government to enter into contracts with other local units of government for the provision of services;

Now, Therefore, Be It Resolved by the Borough of Allendale that it does hereby authorize and approve an Interlocal Services Agreement with the Village of Ridgewood for the services aforesaid, said Agreement began to run on a calendar basis starting January 1, 2008;

Be It Further Resolved that the Mayor and Municipal Clerk be and they are hereby authorized to execute an Interlocal Services Agreement and a copy of the Agreement shall be filed and open to public inspection at the Offices of the Municipal Clerk immediately after the introduction of this Resolution before the Governing Body;

Be It Further Resolved that the Agreement shall take effect upon the adoption of appropriate Resolutions by all parties thereto.

On roll call, all Council members voted in favor.

Resolution 11-353 – Introduced by Ms. LaMonica, seconded by Mrs. Wilczynski

Be It Resolved by the Council of the Borough of Allendale that the Tax Collector is hereby authorized to issue checks to the following due to a State Tax Board Judgment for the year 2010:

Block/Lot	Name	Amount
410/7	Charles C. Zoccoli C/O John R Lloyd, Esq. Nowell Amoroso Klein Bierman, P.A. 155 Polifly Road Hackensack, NJ 07601	\$1,447.82

Be It Further Resolved by the Council of the Borough of Allendale that the Tax Collector is hereby authorized to reduce the 2011 tax levy and issue a check to the following due to a State Tax Board Judgments for the year 2011:

410/7	Charles C. Zoccoli	\$18.70
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C/O John R Lloyd, Esq.
Nowell Amoroso Klein Bierman, P.A.
155 Polifly Road
Hackensack, NJ 07601

On roll call, all Council members voted in favor.

Resolution 11-354 – Introduced by Ms. LaMonica, seconded by Mrs. Wilczynski

Whereas, due to the continued absence of the Director of Operations, additional work hours are required in the Department of Public Works;

Now, Therefore, Be It Resolved by the Governing Body of the Borough of Allendale, that Mary Rottigen is hereby granted a temporary emergency extension of five (5) additional hours per week effective immediately for a period of time not to exceed 30 days.

Be It Further Resolved that this resolution will be in effect beginning January 1, 2012.

On roll call, all Council members voted in favor.

Committee Reports

Public Safety

Mr. Bernstein said Mr. Schoepflin was his soccer coach when he was eight or nine years old and he has known him since that time. He commented that Mr. Schoepflin is synonymous with dignity, honor and common sense. Mr. Bernstein said he views Mr. Schoepflin as a patriot and founding father of Allendale and he thanked him for all of his hard work and effort over the years.

Public Works

Mrs. White thanked Mr. Schoepflin for always being a true gentleman. She stated it has been a pleasure to serve for five years with him on the Council. He has always been supportive and full of information and commented that he will truly be missed.

Land Use and Construction Code

Mr. Strauch was absent.

Water, Sewer and Public Utilities

Mr. Schoepflin said his Committee met in December. There are several issues facing the Water Committee next year including the sump pump issue and a possible adjustment in water rates.

Mr. Schoepflin said it has been a pleasure to serve on the Council and he regards everyone on the Council as a friend, not just an associate.

Administration, Finance and Human Resources

Ms. LaMonica said there will be a preliminary meeting on the 2012 budget in the near future. Also the Administrative Committee is still working on the approval of the Office Employees Union contract.

She said although she has not known Mr. Schoepflin as long as other members of the Council, she has had the unique opportunity to work with him on the Water Committee and she has learned a lot from watching how he works. He always concentrates on moving topics along and on staying focused. She stated that Mr. Schoepflin will be missed on the Council and she wished him the best in the future.

Facilities, Parks and Recreation

Mrs. Wilczynski stated that the grandstand work is underway. Work may be delayed a bit while they wait for materials to be delivered.

Allendale had its first menorah lighting at the AB&G location and most of the Council members were in attendance.

Mrs. Wilczynski told Mr. Schoepflin that she has known him since she was a teenager and she was a friend of his children. He has always been someone to look up to on the Council and he has brought insight from his years of experience. She added that he will be missed.

Mr. Barra said he will miss Mr. Schoepflin tremendously. When he has had a particularly tough day Mr. Schoepflin will send him an email and encourage him to keep smiling. Mr. Schoepflin has always been concerned about the health and well being of the Mayor and others. Mr. Schoepflin's attitude is the reason why so many people respect him and why he will be missed by others.

Municipal Attorney

Mr. Bole said it has been a pleasure knowing Mr. Schoepflin and working with him over the past years. He has considered it a privilege and an opportunity to work with Mr. Schoepflin. He has appreciated Mr. Schoepflin's good sense of direction from a business and practical point of view in addition to his sense of humor. Mr. Bole wished health, happiness and good fortune to Mr. Schoepflin in his retirement from the Council.

Administrative Officer/Municipal Clerk

Mrs. McCarthy said Mr. Schoepflin was on the Council when she was first appointed as Municipal Clerk in 1998. He has always been an exemplary Councilman and a dear friend to both Al and herself. They will be in touch with him in the future.

Mr. Barra opened the meeting to the public for additional comments. When there were none, Mrs. McCarthy read the following resolution allowing the Council to go into Executive Session.

Whereas, this public body is of the opinion that such circumstances presently exist; and

Whereas, the Governing Body wishes to discuss:

Tax Appeals
Negotiations

Minutes will be kept and once the matter involving the confidentiality of the above no longer requires that confidentiality, then the minutes can be made public.

Now, Therefore, Be It Resolved that the public be excluded from this meeting.

Mr. Schoepflin moved, seconded by Mr. Bernstein to adjourn to Executive Session at 8:25 p.m.

Respectfully submitted,

Gwen McCarthy
Municipal Clerk