

Special Meeting  
Mayor and Council  
December 29, 2014

A Special Meeting of the Mayor and Council of the Borough of Allendale was held in the Municipal Building at 500 West Crescent Avenue, Allendale, NJ on December 29, 2014. The meeting was called to order at 7:05 p.m. by Mayor Barra who announced that the requirements of the Open Public Meeting Act were met by the required posting and notices of publications. The Mayor led those present in a salute to the flag.

The following individuals answered roll call: Councilmembers Bernstein, McSwiggan, Sasso, Strauch, White, Wilczynski and Mayor Barra. Mr. Valenzuela and Mr. Bole were also present.

Councilwoman White made a motion to approve the Work and Regular Session Minutes of October 9, 2014 as submitted, Seconded by Councilwoman Wilczynski.

On Roll Call: Aye – Bernstein, McSwiggan, Sasso, White and Wilczynski. Abstain – Strauch

Councilwoman White made a motion to approve the Work and Regular Session Minutes of October 23, 2014 as submitted, Seconded by Councilwoman Wilczynski.

On Roll Call: Aye – Bernstein, McSwiggan, Sasso, White and Wilczynski. Abstain – Strauch

Councilman Sasso made a motion to approve the Work and Regular Session Minutes of November 13, 2014 as submitted, Seconded by Councilman Strauch.

On Roll Call: Aye – Bernstein, Sasso, Strauch, White and Wilczynski. Abstain – McSwiggan

*Public Comment & Presentation of Proclamations:*

Assemblyman Scott Rumana presented a joint resolution from Senator Kevin O'Toole and Assemblyman David Russo honoring Mayor Barra. Assemblyman Rumana praised Mayor Barra for the wonderful job he has done, noting his dedication to the residents of Allendale, especially the special needs citizens.

The District Director for Congressman Scott Garrett, Robert Pettit, presented Mayor Barra with a Congressional Certificate for Outstanding Service.

Freeholders Maura DeNicola and Tracy Silna Zur of the Board of Chosen Freeholders honored Mayor Barra for his 8 years of service as Mayor, praising him as a man of dedication, integrity and great intelligence; not a politician, but a true public servant. Freeholder Maura DeNicola thanked Mayor Barra for serving on the Board of Social Services, meeting the needs of the most vulnerable residents of the Borough and County.

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County Executive Kathleen Donovan applauded Mayor Barra's work with Orchard Commons and the new 9-11 Memorial dedicated last September 11<sup>th</sup>. She praised his dedicated service, tenacity and his honesty on behalf of the residents of Allendale and Bergen County.

Tom Toronto, President of Bergen County's United Way who stated that on behalf of Shari DePalma of partner organization Madeline Corporation applaud Mayor Barra for his help in developing the Special Needs Housing project on Orchard Street.

Susan Lovisolo, Allendale Republican Club President and member of the Board of the John Fell House praised Mayor Barra for being there every step of the way in the purchase of the John Fell House. She presented Mayor Barra with a "key to our hearts".

Councilwoman Liz White, on behalf of the members of the Council, presented Mayor Barra with a street sign re-naming the entrance to the Special Needs Housing at Crescent Commons as Barra Court.

*Resolutions off Consent:*

**Resolution 14-369:** Designation of Barra Court.

Designation of Barra Court

**Whereas**, Mayor Vince Barra has served as a member of the Governing Body, first as a member of the Council, then as Mayor commencing in January 2006 and, during that time he has served on every committee of the Council as the Ex-Officio Member; and

**Whereas**, in recognition of his exemplary service the Council wishes to designate the entrance and Circle into Crescent Commons as "Barra Court" which is more particularly described as follows:

"Entrance into Crescent Commons directly off of West Crescent Avenue, which includes the circle roadway directly in front of Crescent Commons";

**Now, Therefore, Be It Resolved** by the Governing Body that it does hereby designate the foregoing Entrance and Circle as "Barra Court"; and

**Be It Further Resolved** that a suitable sign identifying the Court is to be installed; and

**Be It Further Resolved** that a certified copy of this resolution be provided to Mayor Vince Barra.

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Councilman Strauch made a motion to approve Resolution 14- 369; seconded by Councilman Bernstein.

On Roll Call: Aye – Bernstein, McSwiggan, Sasso, Strauch, White, and Wilczynski.

**Resolution 14-370:** Resolution Honoring Mayor Vince Barra.

**A Resolution Honoring Mayor Vince Barra.**

**Whereas,** Mayor Barra has been a resident of the Borough of Allendale since 1985, where he and his beloved wife Roseann have raised their two daughters, Christina and Lauren, and

**Whereas,** Mayor Barra is a graduate of the Maritime College at Fort Schuyler and St. John's University School of Law, and

**Whereas,** Mayor Barra was elected to serve on the Borough Council from January 2001 through December of 2003, and

**Whereas,** Mayor Barra was elected to the position of Mayor for two terms that began in January of 2007 and will conclude at the end of 2014, and

**Whereas,** Mayor Barra has been the Ex-Officio member of all of the Borough Council Committees for eight years, and

**Whereas,** Mayor Barra has been the Chair of several committees and organizations in the Borough of Allendale which include the Alliance for the Prevention of Drug and Alcohol Abuse, the 9/11 Memorial Committee, the 9/11 Memorial Scholarship Fund, the Allendale Republican Organization and the Allendale School Expansion Committee, and

**Whereas,** under Mayor Barra's leadership, the Borough Council developed municipal budgets over the last four years that provided for zero percent tax increases for Allendale property owners, and

**Whereas,** Mayor Barra has been a steadfast advocate for Special Needs Housing in the Borough of Allendale, and has championed the development of Crescent Commons and Orchard Commons which have been recognized as model communities in the State of New Jersey, and

**Whereas,** Mayor Barra has served as a member of the Allendale Senior Housing Inc. Board, and

**Whereas,** Mayor Barra is also serving the residents of the County of Bergen as a member of the Board of Social Services, and

**Whereas,** Mayor Barra will continue to serve as a member of the Board of the Allendale Special Needs Housing, and

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**Whereas**, Mayor Barra has earned the respect and admiration of the people who know and work with him because of his integrity, moral compass, compassion, work ethic and intelligence, in short, his dedication to the Borough of Allendale.

**Now, Therefore, Be It Resolved** that the Borough Council expresses its deepest gratitude to Mayor Vince Barra for the many significant contributions he has made to enhance the quality of life in the Borough of Allendale, and bestow on him the title of **Mayor Emeritus** of the Borough of Allendale.

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

Councilwoman McSwiggan made a motion to approve Resolution 14- 370; seconded by Councilman Sasso.

On Roll Call: Aye – Bernstein, McSwiggan, Sasso, Strauch, White, and Wilczynski.

Mayor Barra thanked and praised the Council.

Mayor Barra’s wife Roseann was presented with flowers.

*Agenda review:*

*Consent agenda:*

**Resolution 14-361:** List of Bills.

**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, 2014.

**Resolution 14-362:** Approval of Memorandum of Understanding with Allendale PBA.

**Whereas**, the Collective Bargaining Agreement (“CBA”) between the Borough of Allendale (“Allendale”) and the Policemen’s Benevolent Association Local No. 217 (“PBA”) expires on December 31, 2014; and

**Whereas**, Allendale and the PBA engaged in ongoing negotiations to discuss and agree upon the terms and conditions of a successor CBA; and

**Whereas**, as part of the negotiations for a successor CBA, a Memorandum of Understanding (“MOU”) between Allendale and the PBA was agreed to and approved between the parties for the term January 1, 2015 through December 31, 2017; and

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**Whereas**, the PBA has indicated its approval of the terms and provisions of the MOU by executing the same; and

**Whereas**, Allendale wishes to memorialize its approval of the terms and provisions of the MOU by adoption of this Resolution; and

**Now, Therefore, Be It Resolved** by the Mayor and Council of the Borough of Allendale that the Memorandum of Understanding as between the Borough of Allendale and the Policemen's Benevolent Association Local No. 217 for the term January 1, 2015 through December 31, 2017, be and hereby is **APPROVED**; and

**Be It Further Resolved** that the Mayor, the Borough Administrator and the Borough Labor Attorney are authorized to take all appropriate actions so as to implement this Resolution.

**Resolution 14-363:** Approval of awarding of bid for George St. & Wehner Place Improvements.

**Whereas**, bids were received on November 25, 2014 for the project known as "George Street and Wehner Place Drainage and Roadway Improvements, Alternates"; and

**Whereas**, the bid documents have been reviewed and the apparent low bidder was JTG Construction ("JTG"), Inc.; and

**Whereas**, JTG, in connection with its bid, JTG did not provide Proposal Form (4) which called for the base and alternate bid to be recited in both words, numbers and signed; and

**Whereas**, JTG nevertheless did provide its base bid itemization on Proposal Form (2) and provided the base bid in words on Proposal Form (3) and did sign Proposal Form (1); and

**Whereas**, the Borough has determined that the omission may be waived since it is not substantial because the relevant information was provided as set forth herein; and

**Whereas**, the remaining bid documents of JTG comply with the specifications including its Bid Bond and Consent of Surety; and

**Whereas**, the next low base bid of D&L Paving is in excess of the Engineer's estimate for the project; and

**Whereas**, the bid notice provided that the Mayor and Council reserved the right to waive any informalities in the bidding; and

**Whereas**, the Chief Financial Officer has attached a Certification that adequate funds have been duly appropriated to pay for the Contract; and

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

1. That the omission in the bid documents of JTG is deemed not substantial and is hereby waived;
2. That a Contract for the above referenced project be awarded to JTG Construction, 188 Jefferson Street, Suite 387 Newark, NJ 07105; in the base bid amount of \$38,700.00.
3. That the Mayor and Municipal Clerk are authorized to sign a Contract with the successful bidder following legal review.

**Resolution 14-364:** Authorize Tax Collector to reduce 2014 tax levy due to State Tax Board Judgment.

State Tax Board Judgment

Be It Resolved, by the Council of the Borough of Allendale that the Tax Collector is hereby authorized to reduce the 2014 tax levy and issue the following overpayment check due to a State Board Judgment for the Tax Years 2013 & 2014:

Block/Lot	Name	Property Location	Amount
<b>2014</b>			
2103/27.02	Douglas M. Standriff, Esq. Attorney Trust Account 60 West Ridgewood Avenue Ridgewood, NJ 07450	12 Eroid Court	\$238.30
<b>2013</b>			
2103/27.02	Douglas M. Standriff, Esq. Attorney Trust Account 60 West Ridgewood Avenue Ridgewood, NJ 07450	12 Eroid Court	\$235.70

**Resolution 14-365:** Appointment of Bergen County Community Development Representatives.

Appointment of Community Development Representatives

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**Whereas**, each Bergen County Community that participates in the Community Development Cooperative must appoint two representatives to its respective Community Development Committee.

**Now, Therefore, Be It Resolved** that the Governing Body hereby appoints Council President Liz White and Councilwoman Amy Wilczynski to participate on the Community Development Committee.

**Resolution 14-366:** Authorize an amendment to Recycling Contract. (Change Order)

**RESOLUTION AUTHORIZING CHANGE ORDER # 2 AND SECOND AMENDMENT  
TO CONTRACT WITH SUBURBAN DISPOSAL, INC., FOR DUAL STREAM  
RECYCLING**

**Whereas**, the Borough of Allendale (Borough) currently has a Solid Waste Collection and Disposal Contract (Contract) with Suburban Disposal, Inc., (Suburban), dated April 7, 2011 for a term of five (5) years which commenced on April 15, 2011 until April 14, 2016; and

**Whereas**, by Resolution 13-403 adopted November 25, 2013, the Borough authorized Change Order # 1 and First Amendment to Contract relating to comingled recycling pickup; and

**Whereas**, it is necessary to provide for proposed Change Order # 2 and Second Amendment to Contract for Dual Stream Recycling based upon circumstances more particularly set forth in documentation on file in the office of the Acting Borough Clerk which is incorporated herein; and

**Whereas**, proposed Change Order # 2 and the proposed Amended Contract price is calculated as follows:

Original Contract Price: \$204,000 (Collection) + \$67/ton disposal fee

Change Order # 1: \$62,400 (co-mingled recycling)

Change Order # 2: \$60,000 (Dual Stream Recycling)

New Amended Contract Price: \$326,400 plus \$67/ton disposal fee

**Whereas**, the Chief Financial Officer has attached a Certification that adequate funds are or will be made available in the temporary and permanent budgets of the Borough to pay for Change Order # 2 and the Second Amendment to Contract; and

**Now, Therefore, Be It Resolved**, by the Governing Body that it does hereby authorize Change Order # 2 and a Second Amendment to Contract with Suburban for Dual Stream Recycling; and

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**Be It Further Resolved**, that the Mayor and Municipal Clerk are authorized to sign Change Order # 2 and the Second Amendment to Contract following legal review; and

**Be It Further Resolved**, that the Borough shall comply with the requirements of N.J.A.C. 5:30-11.9 in order to implement the foregoing.

**Resolution 14-367:** Approve Catalyst for Change Resolution Re: COAH.

**RESOLUTION OF THE BOROUGH OF ALLENDALE DECLARING ITS INTENT TO FULLY COMPLY WITH ITS CURRENT AND FUTURE MOUNT LAUREL OBLIGATIONS AND TO SERVE AS THE “CATALYST FOR CHANGE” TO RENDER ANY MOUNT LAUREL LAWSUITS AS “UNECESSARY LITIGATION”**

**Whereas**, in *So. Burlington County N.A.A.C.P. v. Tp. of Mount Laurel*, 92 N.J. 158, 279-80 (1983) (“*Mount Laurel I*”), the New Jersey Supreme Court ruled, subject to several other limitations, that in order for a plaintiff to be entitled to a builder’s remedy, it must “succeed in litigation;” and

**Whereas**, in *Toll Bros. Inc. v. Tp. of W. Windsor*, 173 N.J. 502, 507 (2002), the Supreme Court ruled that in order for a developer to succeed in litigation, it must not only prove that the municipality failed to create a realistic opportunity to satisfy its affordable housing obligation, but also must be the “catalyst for change;” and

**Whereas**, on September 26, 2013, the Supreme Court released *In re Adoption of N.J.A.C. 5:96 & 5:97 by N.J. Council on Affordable Housing*, 215 N.J. 578 (2013) which completely invalidated the third round regulations adopted in 2008 by the New Jersey Council on Affordable Housing (“COAH”); and

**Whereas**, on March 14, 2014, the Supreme Court issued an order directing COAH to propose new third round regulations on or before May 1, 2014 and to adopt them by October 22, 2014; and

**Whereas**, the March 14, 2014 Order further provided that, if COAH failed to meet these deadlines, the Court would entertain a Motion in Aid of Litigant’s Rights which could include an application for the right, on a case-by-case basis, to file a builder’s remedy suit against a municipality under COAH’s jurisdiction, such as the Borough of Allendale (“Borough”); and

**Whereas**, on April 30, 2014, in accordance with the March 14, 2014 Order, COAH proposed third round regulations and published them in the New Jersey Register on June 2, 2014; and

**Whereas**, COAH accepted public comments on the proposed third round regulations until August 1, 2014, and received roughly 3,000 comments; and

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**Whereas**, on October 20, 2014, the COAH board met to consider adopting the proposed regulations; and

**Whereas**, the COAH board reached a 3-3 deadlock and therefore did not adopt the proposed regulations; and

**Whereas**, COAH therefore failed to meet the Supreme Court's October 22, 2014 deadline; and

**Whereas**, the Borough is voluntarily under COAH's jurisdiction and has complied with its *Mt. Laurel* obligations, most recently receiving third round substantive certification from COAH on October 14, 2009; and

**Whereas**, the Borough has fully satisfied its first and second round fair share affordable housing obligations and has surplus affordable housing credits into the third round; and

**Whereas**, COAH's failure to adopt the most recent proposed regulations has left the Borough in a continuing state of limbo despite its history of compliance with its affordable housing obligations and its ongoing commitment to satisfying its obligations voluntarily and without the need for litigation; and

**Whereas**, on October 31, 2014, Fair Share Housing Center ("FSHC") filed a Motion In Aid of Litigant's Rights urging the Supreme Court, among other things, to direct trial judges, instead of COAH to establish standards with which municipalities must comply; and

**Whereas**, FSHC's motion included an alternative fair share calculation for each municipality, further highlighting the uncertainty of the framework with which municipalities must ultimately comply; and

**Whereas**, as a result of future regulations, litigation, and/or legislation, it is entirely possible that the Borough's obligation may indeed differ from that proposed by COAH or advocated by FSHC; and

**Whereas**, indeed, new laws may reduce the obligations of the Borough under COAH's prior round regulations; and

**Whereas**, regardless of what obligation it is ultimately assigned, the Borough remains committed to comply voluntarily with its fair share affordable housing obligations; and

**Whereas**, the Borough brought itself under COAH's jurisdiction because all three branches of government preferred COAH's administrative process to resolve disputes over affordable housing matters rather than litigation; and

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**Whereas**, the Borough wishes to be in a position to complete its efforts to comply voluntarily once its obligations are defined by regulation, order from a court of competent jurisdiction, or legislation; and

**Whereas**, accordingly, the Borough wishes to be in a position to seek immunity from a trial judge if the Court should rule that trial judges should perform COAH's functions so that the Borough can complete its efforts to comply voluntarily with whatever standards the trial judge may determine are appropriate; and

**Whereas**, the Borough herein intends to make its intentions inescapably clear to the public and all concerned.

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

1. Despite the Borough's surplus affordable housing credits to address its future fair share obligation, the Borough formally stipulates that, given all the uncertainty in the law, the scope of its current obligation is unknown.
2. The Borough hereby reaffirms its commitment to satisfy its future affordable housing obligations voluntarily and in the absence of any *Mount Laurel* lawsuits.
3. Once its affordable housing obligations are defined by regulation, order from a court of competent jurisdiction, or legislation, the Borough directs its legal and planning professionals to take all reasonable and necessary action to enable it and its Planning Board to satisfy those obligations expeditiously.
4. The Borough Clerk is hereby directed to display this resolution in a prominent location and to post this resolution on the Borough's website to place the public and all interested parties on notice of the formal commitments herein.
5. The Borough hereby authorizes and directs its Affordable Housing Planner and its Borough Attorney to use this resolution in such manner as they may deem necessary and prudent to ensure that the Borough maintains immunity from exclusionary zoning suits.
6. This Resolution shall take effect immediately

**Resolution 14-368:** Cancellation of Water Appropriations.

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Whereas, the following Water Utility Operating Fund budget appropriation balances for 2014 remain unexpended:

Salaries and Wages	\$ 2,000
Other Expenses	<u>18,000</u>
Total Appropriations Cancelled	\$20,000

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 unexpended balances of the Water Utility Operating Fund be canceled.

**Resolution 14-371:** Authorization of settlement for Clark v. Allendale Re: OPRA

Whereas, the Borough has been served with a Complaint arising from the Open Public Records Act entitled Clark v. Allendale, et al, pending in the Superior Court of New Jersey, Law Division, Bergen County, Docket No.: L-20316-14 (the case); and

Whereas, the Borough believes it to be in its best interests to settle the case without admission of liability or responsibility;

Now, Therefore, Be It Resolved, by the Governing Body that:

1. The Borough is authorized to settle the case and provide to the Plaintiff those motor vehicle investigation reports which are the subject of Plaintiff's Complaint; and
2. The Municipal Attorney is authorized to negotiate a settlement of legal fee claim, if any, that is made by Plaintiff's counsel herein, and subject to Finance Committee approval

Councilwoman White made a motion to approve the Consent Agenda; seconded by Councilwoman Wilczynski.

On Roll Call: Aye – Bernstein, McSwiggan, Sasso, Strauch, White, and Wilczynski.

*Unfinished business:* - There was no unfinished business.

New business - There was no new business.

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*Committee reports and comments:*

**Councilwoman McSwiggan** – Water, Sewer and Public Utilities - no report – Mrs. McSwiggan thanked Mayor Barra for being a mentor, for his sense of honor, his sense of fairness and for his sense of humor. She conveyed her thanks and well wishes to Mayor Barra.

**Councilman Bernstein** – Public Safety - no report – Mr. Bernstein lauded Mayor Bara for his many accomplishments and thanked him for his leadership.

**Councilman Strauch** - Land Use and Construction Code – no report – Mr. Strauch thanked Mayor Barra for his many accomplishments and tireless work, including the preservation of Orchard Commons, the preservation of the Fell House, the Lillian Thomas preserve and the creation of Crescent Commons.

**Councilwoman White** – Administration, Finance and Human Resources – no report – The Community and the Council is blessed to have had Mayor Barra in office.

**Councilwoman Wilczynski** – Facilities, Parks and Recreation – no report - Mrs. Wilczynski praised Mayor Barra for his dedication, citing an incident during Storm Sandy when Mayor Barra gave his generator to our local gas station so that the residents of Allendale would have fuel for theirs.

**Councilman Sasso** - Public Works – no report - Mr. Sasso said that as a new Councilperson, he was thrilled to have this past year to work with Mayor Barra. He stated that Mayor Barra has set the bar incredibly high for public servants.

STAFF REPORTS

Mr. Bole – No Report - Mr. Bole spoke what an honor it was to work with Mayor Barra and of how important it was that Mayor Barra, as a fellow attorney, was available with sage advice.

Mr. Valenzuela – Mr. Valenzuela remarked about the fact that Mayor Barra set the bar for public servants very high, and it has been an honor to work with him.

*Public comments:*

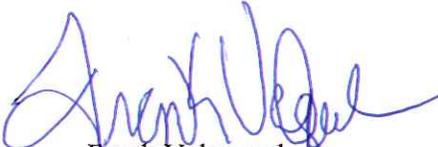
Michael Tat – Thanked Mr. Valenzuela and the Mayor for prompt removal of a tree by the Fell House property.

*Adjournment:*

By consensus, the meeting was adjourned at 7:46 p.m.

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Respectfully submitted,



Frank Valenzuela  
Acting Municipal Clerk