

December 01, 2004

Tree Lighting Ceremony Dec. 5 – 7:00 PM



Beachwood Municipal Complex

Call to Order

Salute to the Flag

MOMENT OF SILENCE IN MEMORY OF THE MEN AND WOMEN WHO LOST THEIR LIVES IN SERVICE TO OUR COUNTRY. WE PRAY FOR A SWIFT AND SAFE RETURN HOME.

Opening Statement:

Ladies and Gentlemen, pursuant to the applicable portions of the New Jersey Open Public Meetings Act, adequate notice of this meeting has been given. The schedule for this Meeting of the Governing Body of the Borough of Beachwood is listed in the notice of meetings posted on the Bulletin Board located in the Municipal Complex and delivered to the Ocean County Observer and the Asbury Park Press on January 2, 2004.

Roll Call Members Present

Council Members:

Beverly Clayton	Thomas Miserendino
Gregory Feeney	Patricia A Moran
Gerald W. LaCrosse	Ronald Roma

Absent: Mayor Harold R. Morris

#2004-316 A RESOLVED by Mayor and Council to approve the following transfers in the 2004 Municipal Budget.

FROM	TO	AMOUNT
Mayor & Council Other Exp.	Mayor & Council Salary / Wages	100.00
Municipal Clerk Other Exp.	Buildings & Grounds Salary/Wages	2,000.00
Municipal Clerk Other Exp.	Vehicle Maintenance Salary/Wages	1,000.00
Legal Salary/Wages	Police Salary / Wages	20,000.00
Engineering Other Exp.	Police Salary / Wages	5,000.00
Uniform Construction Salary / Wages	Police Salary / Wages	5,000.00
Engineering Other Exp.	Sanitation Salary / Wages	11,000.00
Public Works Salary / Wages	Sanitation Salary / Wages	7,500.00
Recycling Salary / Wages	Sanitation Salary / Wages	5,000.00

Motion:	Moran	Second:	Clayton
Approved:	Clayton – Feeney – LaCrosse – Miserendino – Moran - Roma		
Abstain:		Absent	

#2004-316B RESOLVED by the Governing Body of the Borough of Beachwood to approve the Certified Bills List in the amount of \$ 322,598.54

Motion: Feeney Second: Clayton
Approved: Clayton – Feeney – LaCrosse – Miserendino – Moran - Roma
Abstain: Absent

#2004-317 RESOLVED by Mayor and Council to approve the minutes of the November 15, 2004 Meeting of Mayor and Council.

Motion: Feeney Second: Roma
Approved: Clayton – Feeney– Miserendino – Moran - Roma
Abstain: LaCrosse Absent

#2004-318 RESOLVED by the Governing Body to approve the following rentals of the Community Center and Mayo Park.

COMMUNITY CENTER 2005			
Apr.	29	Sedone	Rental: \$350
		344 Mizzen Ave	Deposit: \$500

Motion: Clayton Second: LaCrosse
Approved: Clayton – Feeney – LaCrosse – Miserendino – Moran - Roma
Abstain: Absent

#2004-319 Requested by Councilman LaCrosse 11/22/04
WHEREAS, IRENE WILSON 952 SURF AVENUE, BEACHWOOD HAD THE FOLLOWING WATER METER READINGS IN 2004:

- 2004 1 ST QTR. - 0
- 2004 2ND QTR. - 30
- 2004 3RD QTR. - 0
- 2004 4TH QTR. - 95

AND

WHEREAS, THE WATER DEPARTMENT DID GO BACK AND CHECK THE METER; AND

WHEREAS, THE WATER DEPARTMENT HAD NO IDEA OF WHY THERE WERE NO READINGS IN THE 1 ST & 3RD QUARTER'S; AND

WHEREAS, THE READINGS ON THE METER SINCE 2000 ARE AS FOLLOWS:

- 2000 - 68
- 2001 - 89
- 2002 - 89
- 2003 - 99

NOW THEREFORE BE IT RESOLVED BY THE GOVERNING BODY TO USE THE CONSUMPTION AS IS APPEARED FOR 2003 AND CREDIT BLOCK 5.30 LOT 13 FOR THE 26 THOUSAND GALLONS OR \$113.36 TO THE 4TH _ 2004 BILLING.

Motion: LaCrosse Second: Moran
Approved: Clayton – Feeney – LaCrosse – Miserendino – Moran - Roma
Abstain: Absent
:

#2004-320 WHEREAS, THE BOROUGH OF BEACHWOOD PAYROLL ACCOUNT HAS TWO OUTSTANDING CHECK; AND

WHEREAS, SAID CHECK REMAIN OUTSTANDING SINCE 2001; AND

THEREFORE BE IT RESOLVED BY MAYOR AND COUNCIL TO CANCEL THE FOLLOWING UNIDENTIFIED OUTSTANDING CHECK:

#2045 IN THE AMOUNT OF \$26.36 - #33707 IN THE AMOUNT OF \$129.70

BE IT FURTHER RESOLVED TO CANCEL THE FOLLOWING OUTSTANDING CHECKS FROM THE GENERAL TRUST ACCOUNT:

#930 IN THE AMOUNT OF \$25.00 - #1791 IN THE AMOUNT OF \$2.00

Motion:	Moran	Second:	Clayton
Approved:	Clayton – Feeney – LaCrosse – Miserendino – Moran - Roma		
Abstain:		Absent	

#2004-321 **MUNICIPAL RESOLUTION REQUESTING EXTENDED IMMUNITY**
FROM BUILDER'S REMEDY LAWSUITS

WHEREAS, Borough of Beachwood received a Judgment of Repose from the Superior Court of New Jersey on June 30, 1998 for a period of six years, and this Judgment of Repose has expired on June 29, 2004; and

WHEREAS, COAH adopted rules that permitted municipalities to request an extension of substantive certification upon filing a resolution committing to continue the implementation of second round plans and committing to petition for certification of a third-round plan within one year of the effective date of COAH's third-round rules; and

WHEREAS, Borough of Beachwood adopted said resolution on March 17, 2004 and Hon. Eugene D, Serpentelli entered an Order Extending Temporary Immunity to Borough of Beachwood on April 16, 2004 pursuant to rules that were previously adopted by COAH; and

WHEREAS, the Appellate Division of the New Jersey Superior Court ruled on August 31, 2004 that while COAH has the authority to extend substantive certification, the process used to do so must be revised to include public notice and a principled review of municipal compliance; and

WHEREAS, pursuant to the Appellate Division order of August 31, 2004, COAH has adopted an emergency rule at N.J.A.C. 5:91-14.3 permitting the extension of a municipality's second round substantive certification for up to one year after the effective date of the adoption of COAH's third round methodology and rules; and

WHEREAS, N.J.A.C. 5:91-14.3 requires Borough of Beachwood to request an extension by motion pursuant to N.J.A.C. 5:91-12 and to provide public notice thereof; and

WHEREAS, to be eligible for a grant of extended substantive certification, N.J.A.C. 5:91-14.3 requires Borough of Beachwood to provide a copy of its adopted current Housing Element and Fair Share Plan; and

WHEREAS, to be eligible for an extended grant of substantive certification, N.J.A.C. 5:91-14.3 requires Borough of Beachwood to commit to continue to implement the certified second round plan; and

WHEREAS, to be eligible for a grant of extended substantive certification, N.J.A.C. 5:91-14.3 requires Borough of Beachwood to commit to either file a newly adopted housing element and fair share plan addressing the third round obligation with COAH within one year of the effective date of COAH's third round rules and methodology, currently proposed as N.J.A.C. 5:94-1 et seq. and N.J.A.C. 5:95-1 et seq., or

petition for a third round substantive certification prior to the expiration of the extended second round substantive certification; and

WHEREAS, to be eligible for a grant of extended substantive certification, N.J.A.C. 5:91-14.3 requires Borough of Beachwood to provide a proposed schedule for the submission of the filing or petition for third round substantive certification; and

WHEREAS, to be eligible for a grant of extended substantive certification, N.J.A.C. 5:91-14.3 requires Borough of Beachwood to provide a statement describing the progress of the Borough of Beachwood's compliance with the terms of its 1987-1999 substantive certification; and

WHEREAS, to be eligible for a grant of extended substantive certification, N.J.A.C. 5:91-14.3 requires Borough of Beachwood to provide, and update as necessary, its current monitoring report and development fee monitoring report.

WHEREAS, Beachwood was granted a vacant land adjustment to its affordable housing obligation pursuant to N.J.A.C. 5:93-4.2 and N.J.A.C. 5:91-14.3 requires Beachwood to provide COAH with documentation on the issuance of building permits since the grant of 1987-1999 substantive certification, a statement describing how the municipality has captured or attempted to capture affordable housing opportunities since the grant of 1987-1999 substantive certification and a certification that there has been no substantive changes in the availability of land, water, and/or sewer within the municipality.

NOW THEREFORE BE IT RESOLVED by the governing body of Borough of Beachwood, in the county of Ocean, State of New Jersey, that Borough of Beachwood requests the Court, under COAH's procedure at N.J.A.C. 5:91-14.3, to extend temporary immunity for up to one year after the effective date of the adoption of COAH's third round methodology and rules; and

BE IT FURTHER RESOLVED that Borough of Beachwood hereby commits to continue to implement its certified second round plan and has attached hereto a statement describing the progress of Borough of Beachwood's compliance with the terms of its affordable housing plan; and

BE IT FURTHER RESOLVED that Borough of Beachwood shall leave all ordinances implementing its original affordable housing plan, true copies of which are attached hereto, in effect for the extended substantive certification, unless it can be demonstrated that there is good cause why the ordinances should not remain in effect; and

BE IT FURTHER RESOLVED that Borough of Beachwood hereby commits to address its third round fair share obligation by petitioning COAH for review and certification of a newly adopted housing element and fair share plan or applying to the Superior Court of New Jersey within one year after the effective date of COAH's third round methodology and rules; and

BE IT FURTHER RESOLVED that Borough of Beachwood commits to submitting a newly adopted housing element and fair share plan to address its third round obligation by December 20, 2005, according to the schedule attached hereto; and

BE IT FURTHER RESOLVED that Borough of Beachwood's current monitoring report and development fee monitoring reports, true copies of which are attached hereto, have been forwarded to COAH or the Court for review; and

BE IT FURTHER RESOLVED that Borough of Beachwood's adopted current Housing Element and Fair Share Plan, true copies of which are attached hereto, have been forwarded to COAH or the court for review; and

BE IT FURTHER RESOLVED that the governing body of the Borough of Beachwood has directed its construction code official to prepare documentation on the issuance of all building permits since the grant of the Court's 1987-1999 Judgment of Repose; and

BE IT FURTHER RESOLVED that the governing body of the Borough of Beachwood has directed its licensed planner to prepare a certification indicating what, if any, substantive changes in the availability of land, water and/or sewer have occurred within the Borough since the court's entry of a judgment of repose, a true copy of which is attached hereto; and

BE IT FURTHER RESOLVED that Borough of Beachwood shall either file the newly adopted housing element and fair share plan addressing the third round obligation with COAH, petition for a third round substantive certification or apply to the Court for a third round Judgment of Repose prior to the expiration of the extended immunity certification that has been requested.

Motion: Moran Second: Feeney
Approved: Clayton – Feeney – LaCrosse – Miserendino – Moran - Roma
Abstain: Absent

#2004-322 RESOLUTION OF THE BOROUGH OF BEACHWOOD, OCEAN COUNTY, NEW JERSEY AMENDING THE PRIOR RESOLUTION AND CONTRACT APPOINTING ANTHONY S. GRAZIANO, MAI, CRE TO REFLECT INTEGRA REALTY RESOURCES, ATLANTIC COAST, NJ AS THE PROPERLY NAMED APPRAISAL FIRM

WHEREAS, the Borough of Beach wood previously adopted a resolution appointing Anthony S. Graziano, MAI, CRE for the purpose of performing appraisals involving waterfront encroachments involving four properties along the Borough's riverfront; and

WHEREAS, Mr. Graziano has requested that the resolution and contract be modified to reflect the name of Integra Realty Resources, Atlantic Coast, NJ rather than an individual name; and

WHEREAS, it is the desire of this governing body to make said modification.

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Beachwood, County of Ocean and State of New Jersey as follows:

1. That the Borough Council of the Borough of Beachwood hereby modify its previously adopted resolution to reflect Integra Realty Resources, Atlantic Coast, NJ rather than Anthony S. Graziano, MAI, CRE. All other terms and conditions of the previous resolution and contract shall remain in full force ,and effect.
2. That upon the adoption of the within resolution, the Clerk is authorized to forward a certified copy of it to Integra Realty Resources, Atlantic Coast, NJ, Attn: Anthony S. Graziano, MAI, CRE.

Motion: Feeney Second: Clayton
Approved: Clayton – Feeney – LaCrosse – Miserendino – Moran - Roma
Abstain: Absent

#2004-323 PERSONNEL ACTION –
RESOLVED by Mayor and Council to approve the permanent title changes as per DOP November 25, 2004 as follows:

Bonnie Boud - Senior Cashier Patricia A. Finn – Senior Cashier
Change from “Cashier” (No salary change)

Motion: Feeney Second: Clayton
Approved: Clayton – Feeney – LaCrosse – Miserendino – Moran - Roma
Abstain: Absent

#2004-324 RESOLVED by Mayor and Council to approve the Intra Governmental Transfer from South Toms River to Beachwood of Patrolman Frank Mellilo. Employment effective January 1, 2005, and pending DOP approval. Annual Salary will be \$33,541.00

Motion: Roma Second: Clayton
Approved: Clayton – Feeney – LaCrosse – Miserendino – Moran - Roma
Abstain: Absent

#2004-325 RESOLVED by Mayor and Council that based on Engineering recommendation to authorize release of retainage on Well House #7 (JPS Construction Co.) and to close out Contract BHWD00BORO-4-WL7.

Motion: LaCrosse Second: Roma
Approved: Clayton – Feeney – LaCrosse – Miserendino – Moran - Roma
Abstain: Absent

ORDINANCE FINAL READING AND ADOPTION
#2004-13 AN ORDINANCE OF THE BOROUGH OF BEACHWOOD, OCEAN COUNTY, NEW JERSEY AMENDING CHAPTER II ENTITLED “ADMINISTRATION” AS IT AFFECTS PRIVATE SECURITY DUTIES AND THE FEES CHARGED THEREFOR

BE IT ORDAINED by the Borough Council of the Borough of Beachwood, County of Ocean and State of New Jersey, as follows:

SECTION 1. Section 2-12.11 entitled “Private Security Duties” is hereby amended in its introductory paragraph to delete the sentence reading, “Whenever the Chief of Police or his designee determines that extra duty assignments shall be performed for a party requesting private or quasi-public duty, the Chief of Police or his designee shall enter into an agreement as provided and prepared under the direction of the Mayor and Council for extra duty assignments for which the Borough shall be compensated at the rate set from time to time by resolution.” and to insert in its place and stead the following: “Whenever the Chief of Police or his designee determines that extra duty assignments shall be performed for a party requesting private or quasi-public duty, the Chief of Police or his designee shall enter into an agreement as provided and prepared under the direction of the Mayor and Council for extra duty assignments for which the Borough shall be compensated as hereinafter set forth.”

SECTION 2. Section 2-12.11 entitled “Private Security Duties” is hereby supplemented by the inclusion of the following subsection:

“i. The rate for private security details as requested pursuant to this ordinance shall be \$29.70 per hour with a four (4) hour minimum. Of this rate, the Borough shall receive a 10% administrative charge or a rate of \$2.70 per hour. The police officer will be paid at the rate of \$27.00 per hour. In regard to private road job assignments, the rate will remain at the current \$49.50 per hour with a four (4) hour minimum of which the Borough shall receive 10% for administrative charges.”

SECTION 3. This Ordinance repeals any inconsistent ordinance or ordinances or part or parts thereof.

SECTION 4. This Ordinance shall take effect immediately upon its final passage and publication as required by law.

OPEN TO PUBLIC DISCUSSION THIS ORDINANCE ONLY

Motion: Roma Second: Feeney
Approved: Clayton – Feeney – LaCrosse – Miserendino – Moran - Roma
Abstain: Absent

NO QUESTIONS

CLOSE TO PUBLIC DISCUSSION THIS ORDINANCE ONLY

Motion: Feeney Second: Roma
Approved: Clayton – Feeney – LaCrosse – Miserendino – Moran - Roma
Abstain: Absent

#2004-326 RESOLVED by Mayor and Council to approve and adopt Ordinance #2004-13 as presented and held for discussion.

Motion: Roma Second: LaCrosse
Approved: Clayton – Feeney – LaCrosse – Miserendino – Moran - Roma
Abstain: Absent

CORRESPONDENCE

None

COUNCIL REPORTS

Mayor: ABSENT

Clayton; Beverly Recreation holding Tree Lighting Ceremonies on December 5, 2004 at 7:00 at the Municipal Complex. Will be joined by the Beachwood Elementary Choral group. House decorating contest scheduled for judging December 10-11-12, awards December 15th meeting. Snow Man Photo contest under way. 2005 Calendars in mail. Will be meeting with T.R. Bd. Education on New School and Cherry Street exit and entrance. While on recent vacation saw some interesting “ROAD” signs would like to discuss. Will be securing information on same.

Feeney; Gregory Public Works committee meeting held on Nov. 29th, and among other subjects discussed “Salt Shed”. Received MEL/JIF annual report, and will be seeing new rates imposed.

LaCrosse; G.W. United Water Agreement has some changes to make. New well project “closed out” just waiting on DEP for approval to use. Lime Unit matters still on going.

Miserendino; T. Jr. Fire Academy graduated 16 members November 26 at the Beachwood Elementary School. Mrs. Zuck is to be credited with the idea for the program. It was co-sponsored by Fire Company – Alliance and Recreation. Comcast is implementing another rate increase. First Aid Building has application at CAFRA. Weather changes will affect housing of rigs. Building is a vital issue to address. Road work punch list – not complete and needs update. Fire Company will begin sale of Christmas Trees. Breakfast with Santa Dec. 5th starting at 08:00.

Moran; Patricia Things slowing down during this season. Holiday decorations are up. Lot behind Fire Company has been paved. Project about complete. Working on “floor” painting.

Roma; Ronald Berkeley Avenue, “slow down” signs at school are working well. Will be putting on walking streets as well. Will discuss concerns about removing during off hours. Alliance holding Volley Ball registration Dec 01-02 at School. Dance Dec. 10 – Senior Lunch Dec. 17.

Feeney; Greg Commented on proposed “video conferencing” in the court system. Will be reporting further on this.

Miserendino; Thomas: Noted that the Borough received a request to consider approval of a “fence” at Lightning Lube. They should be advised to apply via the Planning Board who addresses “Commercial” properties.

William T. Hiering; Attorney No report – Executive Session matters (litigation)

Engineer : Landfill Materials to be spread by County December 13. US Filter do in to address repairs January 10-11-12.

Christine Dehnz: Will be meeting with the new Postmaster to discuss recent problems.

Municipal Clerk

#2004-327 WHEREAS, on November 30, 2004 the Borough received an application for rental of the Community Center (January 8,2005) by MaryAnne Gordon 436 Beach Ave., noting all resident fees were posted (\$850); and

WHEREAS, the application never received approval by resolution when , on December 1, 2004 said Mary Anne Gordon appeared and presented a written notice of cancellation, subjecting the applicant to a cancellation fee; and

NOW, THEREFORE, BE IT RESOLVED to authorize a refund to Mary Anne Gordon, 436 Beach Ave, Beachwood in the amount of \$750, , said refund reflecting cancellation fee.

Motion: LaCrosse Second: Clayton
Approved: Clayton – Feeney – LaCrosse – Miserendino – Moran - Roma
Abstain: Absent

#2004-328 WHEREAS, on November 8, 2004, the Borough of Beachwood received payment for Fire Prevention Registration Fee from “Bergery’s Tae Kwan Do”; and

WHEREAS, on the weekend of November 27th, the Fire Prevention Inspector appeared at Bergery Tae Kwan Do and advised that payment was do – and accepted payment at the location and subsequently deposited same on November 29th, creating a duplicate payment.

NOW, THEREFORE, BE IT RESOLVED, to authorize a refund in the amount of \$55 dollars to Bergery Tae Kwan Do – 221 Atlantic City Blvd. Beachwood.

Motion: LaCrosse Second: Clayton
Approved: Clayton – Feeney – LaCrosse – Miserendino – Moran - Roma
Abstain: Absent

#2004-329 RESOLVED by Mayor and Council to approve the use of the Recreation Bus by the Recreation Commission December 11, for Holiday House Decorating “judging”.

Motion: Feeney Second: Clayton
Approved: Clayton – Feeney – LaCrosse – Miserendino – Moran – Roma
Abstain: Absent

OPEN TO PUBLIC DISCUSSION

Motion: Roma Second: Clayton
Approved: Clayton – Feeney – LaCrosse – Miserendino – Moran - Roma
Abstain: Absent

