

The **June 10, 2013** meeting of the Borough Council of the Borough of Spring Lake Heights, Monmouth County, New Jersey, was called to order by Mayor Gavino Maccanico at 7:00 p.m. in the Frank E. Adams Municipal Building.

Present:

Mayor Gavino Maccanico  
Councilwoman Patricia Cindea  
Councilman Richard Diver  
Councilwoman Sara King  
Councilman James Shuler  
Councilman Christopher Tienken  
Councilman Thomas Vorbach

Absent: None

Also Attending:

Joseph J. Delaney, Jr., Administrator/Borough Clerk  
Frederick C. Raffetto, Esq., Borough Attorney

On a motion by Mr. Diver, seconded by Mrs. King, **Resolution R2013-73**, authorizing an Executive Session was adopted without objection. The public meeting was recessed at 7:04 p.m. and the Executive Session convened in the Conference Room.

**Executive Session.**

- **Litigation/Personnel-Tax Collector:** Borough Attorney Raffetto reviewed his June 7th correspondence to the Mayor and Council reporting on the status of the "Common Sense Shared Services Act" and confirmed the legislation is pending in the legislature and has not been enacted into law. Mr. Raffetto provided the Council with his opinion regarding the elimination of a tenured position. Borough Administrator Delaney presented a proposal to settle the salary dispute and was authorized to request a settlement agreement be drafted by labor counsel and distributed for review.
  - **Personnel-Administrator:** Councilman Diver reported on the status of ongoing discussions with Mr. Delaney.
- The Executive Session was adjourned at 7:25 p.m. without objection.

**PRESENTATIONS.** At 7:30 p.m. Mayor Maccanico introduced Fire Marshal Joseph Beliveau and Spring Lake Heights Elementary School art teacher Kyle Forbes to announce the following winners of the annual Fire Prevention Poster Contest:

Kindergarten: (1st) Rose Dienna, (2nd) Shep Cooper, 3rd) Sean Cosme;  
1<sup>st</sup> Grade: (1st) Madison Sinkhorn, (2nd) Ryan McBride, 3rd) Mae Stoll;  
2<sup>nd</sup> Grade: (1st) Kiera Dunlevy, (2nd) Bree Biesiadecki, (3rd) Margaret Bodnar;  
3<sup>rd</sup> Grade: (1st) Andrew Vadas Jr., (2nd) Colleen Dickenson, (3rd) Madeline Reynolds;  
4<sup>th</sup> Grade: (1st) Julia Kusmenko, (2nd) Lucas Hope, (3rd) Stephen Terkildsen;  
5<sup>th</sup> Grade: (1st) Jenny Bram, (2nd) Eden McBride, (3rd) Daphney Nesnay;  
6<sup>th</sup> Grade: (1st) Alex McWalters, (2nd) Keaton Fortney, (3rd) Grace Beyer;  
7<sup>th</sup> Grade: (1st) Ebbie Shim, (2nd) Tyler Walker, (3rd) Randy Maccanico;  
8<sup>th</sup> Grade: (1st) Kathryn Callahan, (2nd) Chris Heilos, (3rd) Sarah Higgins.

Division winners were:

Division 1 – Kiera Dunlevy  
Division 2 - Julia Kusmenko  
Division 3 - Ebbie Shim.

Mayor Maccanico presented awards to those attending.

**Public Session.** The public session was called to order at 8:00 p.m. by Mayor Maccanico and opened with a silent reflection and Pledge of Allegiance.

Present:

Mayor Gavino Maccanico  
 Councilwoman Patricia Cindea  
 Councilman Richard Diver  
 Councilwoman Sara King  
 Councilman James Shuler  
 Councilman Christopher Tienken  
 Councilman Thomas Vorbach

Absent:

None

Also Attending:

Joseph J. Delaney, Jr., Administrator/Borough Clerk  
 Frederick C. Raffetto, Esq., Borough Attorney

**STATEMENT OF COMPLIANCE** The Clerk reported the meeting was being conducted pursuant to the requirements of the N.J. Open Public Meetings Act with notice included in the annual notice of meetings sent to the Coast Star and Asbury Park Press; posted on the bulletin board in the Municipal Building and on the Borough website.

**FIRST VOICE OF THE PUBLIC** (Agenda items only)

- John Tangeman, 564 Atlantic Avenue, felt that the ordinance shouldn't be introduced, he felt it wasn't necessary. The property owners could go before the appropriate boards for any variances. He also asked Attorney Raffetto if he reviewed the ordinance for consistency with the Master Plan. Mr. Raffetto stated that the Planning Board has reviewed this and has made recommendations.
- Sharon Batteau Beverly Avenue, felt that the ordinance isn't necessary and should not be introduced tonight. She felt that there was supposed to be another town meeting about this, she felt a traffic study and environmental study should be done first. She felt most residents are not in favor.
- Fred Manger 61 Wyckham Road, expressed his support for the ordinance. He also stated that a traffic study couldn't be done at this time because of not knowing what would be built in the new B3 zone.
- Kathleen Crippen 564 Atlantic Avenue, stated that she's she will read an excerpt of a letter from Joe May & Eric Lieber to the Mayor with recommendations for residential, commercial zone or a combination thereof. It included recommendations for access to and from the site. She pointed out that this would also require approval from Monmouth County.
- Patricia Durkin Wignall 2015 Highway 71, stated that she is directly effected of the change, she was in favor of the change, she pointed out that a commercial zone would mean larger buffer areas. She also felt that an office/retail commercial area would mean less traffic since business are there from 9 to 5 compared to a residential development which would be all day with visitors.
- Fred Manger 61 Wyckham Road, as a Wyckham Manor resident he notes that the engineer has made a recommendation for a parallel drive and roadway which he feels is an excellent idea. The residents in Wyckham are looking forward to being able to walk and patronage the new businesses.
- John Lewis 574 Prospect Avenue, he felt that the concern of everyone is that no one knows exactly what will move in there. If there was something to look at it, a concept, it would make some people more at ease.
- Ed McQuirk 1208 Allaire Road, he also would like to see plans first, he wanted to make sure this would not be a cost to taxpayers. He wanted to make sure that whatever went in that the Fire Department should review it as well.

A motion to close the public was made by Mrs. King and seconded by Mr. Diver without objection

**APPROVE AGENDA** On a motion by Mr. Vorbach, seconded by Mrs. King, the agenda was approved by the following vote:

Ayes: Mrs. Cindea, Mr. Diver, Mrs. King, Mr. Shuler, Mr. Tienken, Mr. Vorbach

Nays: None Abstain: None Absent: None

**SCHEDULED PUBLIC HEARING** There were no scheduled hearings.

**DISCUSSION ITEMS**

- Budget Amendment; Adoption of Amended 2013 Budget. Mr. Delaney anticipated being able to adopt the

budget and or amendment which is why it was listed on the agenda but we haven't heard from the State with comments.

### REPORTS & ANNOUNCEMENTS

- Mayor Maccanico – read a letter from the Brownie Troop #29 they've asked for Councils help in taking the requirements that they need to meet in order to move into Girl Scouts. They requested that we fix or repair the swings at Allaire Road Park and the Community Center they are concerned that someone may get hurt. Mayor Maccanico asked Councilman Shuler to investigate and take necessary steps to correct.
- Councilman Tienken – Reported that Recreation signups start tomorrow and the townwide yard sale is Saturday; applications should be done.
- Councilman Vorbach – No report.
- Councilwoman Cindea - noted that the Federal Government is putting forth 2.4 million dollars for Wreck Pond which benefits us along with the communities that border Wreck Pond.
- Councilwoman King wanted to report that a letter was received from a resident about an accident in the parking lot of the Post Office; he wanted to commend Patrolman Kenny. He was proud to be a resident in Spring Lake Heights. She also reported that there were 719 motor vehicle stops in May which is attributed to our new equipment, the E-Ticketing machine.
- Councilman Diver – No report.
- Councilman Shuler reported that Public Works has been busy cleaning the storm drains throughout town.

### REPORTS, NOTICES & CORRESPONDENCE

- Police Department Report (May 2013)
- Municipal Court Report (May 2013)
- Correspondence from Special Counsel John Lane re: Tax Appeal decision (The Oaks Apts.)

### ORDINANCE INTRODUCTIONS

- **ORDINANCE NO. 2013-\_\_\_**, AN ORDINANCE RE-ZONING CERTAIN PROPERTIES LOCATED WITHIN THE BOROUGH OF SPRING LAKE HEIGHTS TO A NEW ZONING DISTRICT TO BE KNOWN AS THE "B-3 COMMERCIAL ZONE," ADOPTING A NEW ZONING MAP, AND AMENDING AND SUPPLEMENTING CHAPTER XXII, "MUNICIPAL LAND USE REGULATIONS," OF THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF SPRING LAKE HEIGHTS, NEW JERSEY

Attorney Raffetto wanted to comment about prior statements of the audience. He is very mindful of the comment about the Planning Board and the Master Plan. The letter received by the Planning Board Attorney, George McGill did make certain recommendations but there isn't specific language referencing consistency with the Master Plan. He would recommend if council moved to introduce this ordinance tonight, that it is referred back to the Planning Board for a consistency report. He commented that council is allowed to adopt an ordinance that isn't totally consistent with the Master Plan but there are heighten requirements. His recommendation is that this is referred back to the Planning Board for a written consistency for the record.

Mayor Maccanico felt that it is recommended that it be tabled tonight and await the report from the Planning Board. Attorney Raffetto pointed out that the report could be requested in between the introduction but before the adoption.

Mrs. Cindea thought the public should be notified, Mr. Diver stated that there would be a public hearing on the ordinance.

Mr. Vorbach agreed with Mr. Raffetto with requesting the report from the Planning Board. He also felt there should be more public meetings so that everyone could voice their opinion giving the council the opportunity to hear all and make an informed decision on how all residents feel.

Mr. Shuler asked about the removal of paragraph F, Attorney Raffetto stated that the letter from Planning Board Attorney, Mr. McGill made reference that the board wanted to remove the following permitted uses, liquor

store, hardware store, garden supply and outside dining use. If that was removed an entire section could be removed from the ordinance.

Mrs. Cindea stated that the property should move forward and have a traffic study done. She felt that the property would be a busy location. She stated that at the March 11<sup>th</sup> meeting the public was not in favor.

Mrs. King stated that living on this side of town; she and the Mayor have given this consideration for quite a while. She stated that most of the objectors lived on the other side of town. She felt that if there is another public meeting that an oversized easel is available so that everyone can see what a proposal would look like. She reminded everyone that when an application is received by the Planning Board, the proper studies are required before an approval would be given.

Mr. Diver stated that he is concerned if this remains zoned as it is, what type of housing would go there. It's not exactly a good spot for homes; if they are built in the residential zone which is to the rear then children would be walking through a business zone to get to their home. The residential zone does not require a buffer; a commercial would require that one is planted. The existing buffer at the property now would most likely be removed. He felt that stormwater management would be controlled better as a commercial zone.

Mrs. King added that at the public meeting, Mr. Manger pointed out that the property owner could built homes to the rear and build commercial in the front and they would be conforming, with this new ordinance we would have control as to what could be built there.

Mrs. Cindea asked about changing the new zone while there is an application in the process. Attorney Raffetto clarified that the zone could be changed but that the application in process would not be effected. Before voting on the ordinance she would like to know what the owners intentions are for the property.

Mr. Vorbach made a motion to call the question and table the ordinance, seconded by Mr. Diver.

Mr. Tienken asked if the letter from the Planning Board would be required, Attorney Raffetto stated yes. Mr. Delaney will send a request to the Planning Board.

Vote taken as follows:

Ayes: Mrs. Cindea, Mr. Diver, Mrs. King, Mr. Shuler, Mr. Tienken, Mr. Vorbach

Nays: None Abstain: None Absent: None

## RESOLUTIONS

- **R2013-74**, approving the renewal of the designated Alcoholic Beverage Control Licenses. On a motion by Mrs. King, seconded by Mr. Shuler, the resolution was adopted by the following vote:  
Ayes: Mr. Diver, Mrs. King, Mr. Shuler, Mr. Tienken, Mr. Vorbach  
Nays: None Abstain: Mrs. Cindea Absent: None
- **R2013-75**, approving the renewal of the Alcoholic Beverage Control License issued to the Spring Lake Golf Club. On a motion by Mr. Vorbach, seconded by Mrs. King, the resolution was adopted by the following vote:  
Ayes: Mrs. Cindea, Mrs. King, Mr. Shuler, Mr. Tienken, Mr. Vorbach  
Nays: None Abstain: Mr. Diver Absent: None
- **R2013-76**, authorizing tax refunds, overpayments or cancellations. On a motion by Mr. Vorbach, seconded by Mrs. King, the resolution was adopted by the following vote:  
Ayes: Mrs. Cindea, Mr. Diver, Mrs. King, Mr. Shuler, Mr. Tienken, Mr. Vorbach  
Nays: None Abstain: None Absent: None
- **R2013-77**, approving Consent Agenda items as follows:
  - Outdoor Music Permit: Independent Fire Company No. 1, 700 Sixth Avenue (Saturday, July 20, 2013 - 11:00 am – 7:00 pm)
  - Alcoholic Beverage Social Affair Permit: Independent Fire Company No. 1, 700 Sixth Avenue (Saturday, July 20, 2013)
  - Fireworks Display: Spring Lake Golf Club (Wednesday, July 3, 2013 – 9:00 pm)
  - Use of Facilities – Municipal Building: Spring Lake American Legion Post 432, Annual Flag Disposal Ceremony (Thursday, June 13, 2013 – 6:30 pm)

On a motion by Mr. Vorbach, seconded by Mrs. King, the consent resolution was adopted by the following vote:

Ayes: Mrs. Cindea, Mrs. King, Mr. Shuler, Mr. Tienken, Mr. Vorbach

Nays: None Abstain: Mr. Diver Absent: None

- A motion to move the bills to the Finance Committee, by Mr. Diver, seconded by Mrs. King, was approved by the following vote:

Ayes: Mrs. Cindea, Mr. Diver, Mrs. King, Mr. Shuler, Mr. Tienken, Mr. Vorbach

Nays: None Abstain: None Absent: None

- Resolution R2013-78, approving payment of claims on the June 7, 2013 Bill List. On a motion by Mr. Diver, seconded by Mrs. King, the resolution was adopted by the following vote:

Ayes: Mrs. Cindea, Mr. Diver, Mrs. King, Mr. Shuler, Mr. Tienken, Mr. Vorbach

Nays: None Abstain: None Absent: None

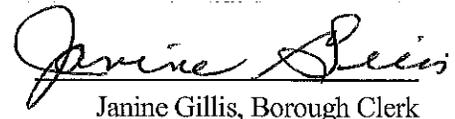
#### SECOND VOICE OF THE PUBLIC (Any items)

- Patricia Durkin Wignall, 2013 Hwy. 71, she felt that we should have moved forward tonight on the ordinance, she feels that traffic would not be impacted negatively.
- John Tangeman, 564 Atlantic Avenue, wanted to know if built commercial does that make property values go up or down. Mr. Diver reminded everyone that with commercial there are more restrictions on the buffers. Mr. Tangeman added that the property owner submitted plans that included residential and commercial that was close to conforming. Mr. Diver stated that he saw the plans and it may children would be walking through a commercial site. Mayor Maccanico added that a split zone in the area does not work. Mr. Tangeman asked if someone could investigate if that area is changed to commercial how it would affect the surrounding property values. Mayor Maccanico asked Mr. Delaney to investigate that.
- Kathleen Crippen, 564 Atlantic Avenue, asked if the B-2 zone allows for retail, Mr. Diver replied yes. She asked what the difference is with the new ordinance, Mr. Diver that it's more of what is coming out. She felt that the retail allowance would add to the traffic in the area.
- Fred Manger, 61 Wyckham Road, would like to add that sending it back to the Planning Board is excellent. He felt that the ratables would be good for the town; this new zone would allow the council to dictate what would be allowed in the new zone.

On a motion by Mr. Diver, seconded by Mrs. King, the public comment period was closed without objection.

**APPROVAL OF MINUTES** Mayor Maccanico asked if there were minutes for approval, Mr. Delaney replied no.

**ADJOURNMENT** There being no further business, on a motion by Mr. King, seconded by Mr. Diver, the meeting was adjourned without objection at 9:07 p.m.



Janine Gillis, Borough Clerk

Approved: September 28, 2015