

**MINUTES OF A SPECIAL MEETING OF THE
MAYOR & COUNCIL
HELD SATURDAY, MAY 31, 2008**

The meeting was called to order by Mayor Hipp at 10:08 a.m. with the following Councilmembers present:

Councilwoman Keyes
Councilman Genovesi (arrived at 10:10 a.m.)
Councilwoman Inguanti
Councilman Sasso

Councilman Fecanin - absent
Councilman Sommer - absent

*

Mayor Hipp asked those present to join him in a salute to the flag followed by a moment of silence.

*

Mayor Hipp read the provisions of the Open Public Meetings Law.

*

*

*

Councilwoman Inguanti asked CFO Ed Cortright to provide an overview of the 2008 municipal budget. The CFO referred to the handout which was an estimate as of April 24, 2008. The CFO said that the overview is where they were when they introduced the budget back in March where they were looking at a 6.9% increase in the amount to be raised in taxes for municipal purposes. He said the overall, counting the school, the Borough has introduced and the County has estimated they are looking at approximately a 4.48% increase however when the County strikes the rate, they round against them and as a result of rounding against them the 6.9% becomes 7.95% because they always round against them. The CFO said on the average home assessed at \$450,000 the average homeowner is looking at an increase of about \$229. for the municipal purpose tax and overall \$435 County and School. He said this is the introduced budget and since it was introduced they have had a few ominous things which he is sure the Mayor will have a discussion about. The CFO said they know how much delinquent taxes for the year because of the tax sale; they anticipated in the introduced budget \$1million; they received about \$603,000 leaving a deficit there of \$396,000. He said that means if nothing else happens they will have to increase taxes by A) the \$396,000 – because Encap has gone bankrupt this has implication for the 2008 tax revenue. The CFO said taking a look at the 2008 revenue, the estimated levy is about \$58 million; he said the percentage of collection used to prepare the budget was 98.2%, the percentage of collections with the Encap

bankruptcy assuming they don't pay the 2008 taxes either, is going to drop to 97.75% which is a shortfall in tax revenue on December 31 of an estimated \$255,000. The CFO said the worst possible scenario is a deficit of \$396,000 in delinquent tax revenue, a deficit of tax revenue of \$265,000 and if Gov. Corzine's budget goes through it is \$205,000 in State Aid that will have to increase taxes by because they won't be receiving that Aid. He said adding those three numbers up it comes to a total of around \$900,000. The CFO asked that the Mayor address this because he has some very definite ideas on the subject.

Mayor Hipp said with respect to the deficit of delinquent taxes they are going to move the bankruptcy court to lift the stay to allow the tax bill Encap; he personally believes that is going to be successful for them and they hope to have recommendations at the June meeting. The Mayor said the amount of outstanding taxes from Encap is \$600,000 with interest, and assume a conservative \$500,000; that will eliminate the deficit of \$396,000 and increase the estimated collection.

Councilwoman Keyes asked if he thought that was going to happen this year. Mayor Hipp responded that it will happen this year, the idea is that the application to lift the stay will be laid by Bankruptcy Counsel within the next 60 days or within 60 days after they are hired. The Mayor said he anticipates that if it is true the tax sale will occur in September or October, so it will be this year and he believes that the motion will be successful. Mayor Hipp said they may if fortunate, be able to do it by consent and the Bankruptcy Counsel will advise of such. Councilwoman Keyes asked if it will happen after the adoption of the budget and Mayor Hipp said he is assuming that it will be after the adoption and they will do an amendment; he doesn't believe it will happen before unless there is a consent; it will take time to have the motion prepared and heard by Judge Winfield and they will just get an order to proceed. The Mayor said that has happened already in connection with NJMC application they received consent to use escrow money to recommence cleaning up the landfills in Rutherford and Lyndhurst, if they do consent they can actually probably pull it off prior to the adoption of the budget, but he will assume the worst case scenario, it will happen Sept/Oct but it will be this year.

The CFO said assuming they get back on the tax rolls and they get the 2008 taxes in the delinquent tax revenue, like the Mayor said, what is going to happen to the delinquent tax revenue is that they will not only collect the deficit of \$396,000 but another \$100,000 in fines thus the windfall in interest. He said in addition to that it will go to surplus on December 31, 2008 from delinquent tax revenue, similarly with 2008 tax revenue, they have new ratables coming on and these will be in the added assessment duplicate that will come out in November. The CFO said the added assessments mean they will have \$265,000 from Encap plus all the monies coming in from the added assessments from the new ratables coming on which will mean a sizable surplus. Councilwoman Keyes asked where the new ratables would be coming from and Mayor Hipp said the largest one is the Meadow Road complex and the question is whether they are going to market them as apartments or condos. He has had conversations informally with the attorney, the intention is to go condos and if it is assessed at condo value it is a much higher value; he believes it is 50 units that adds almost \$15 million over the tax base that would be an added assessment that would come in this year. The CFO said the nice thing about the added assessment coming on-line is that they will not have to adjust the budget when

they adopt it in August or July with the \$396,000 deficit in delinquent tax revenue or the \$265,000 deficit in tax revenue assuming that does happen. He said the windfall that they are going to directly add to the assessments is going to off-set that, so those added taxes they are going to get are going to off-set the deficits, which means they will not have to adjust the budget in the wrong direction when they finally amend in August.

Councilwoman Keyes asked if that was the only new ratable? Mayor Hipp responded that was the largest one, there are several smaller ones which they are tracking as to when they are coming on-line. The Mayor said he is working with the Building Dept. as well as with the Tax Assessor to see the status of it but he was told that should actually be open for business, marketing the units in June it will happen this year. Mayor Hipp said the added assessment will take place October 1st.

The CFO said in regards to the potential deficit from Encap they will be able to amend the extraordinary aid application that he is going to prepare an addendum for them to look at the next meeting and then send the final copy off to Trenton. He said they applied for \$850,000, were hoping for \$500,000 and as the Mayor told him yesterday they will be happy to get \$100,000 but it is a step in the right direction for the aid applications, it makes a better case for the Borough of Rutherford.

Councilwoman Inguanti said in regards to the estimated tax bills, what rate? The CFO said he is going to give the Council a series of scenarios and they will look at the best scenario, because they don't want to be low in the third quarter and have a high fourth quarter nor do they want to do the reverse of that. Mayor Hipp said that will be one of the agenda items for the June meeting and one of the ideas is if the Council sees it is appropriate to estimate the taxes they are hoping to be able to avoid another tax anticipation note which will save interest this year. The Mayor said they are going to need the cooperation of the insurance company and Board of Education. Councilwoman Keyes recommended they include Caryn Miller to assist. The CFO said the savings on interest on the anticipation notice is around \$250,000.

The CFO said the subtotal of the grants received is about \$50,000 so far and they are getting a Body Armor Grant, Clean Community Grant \$18,000, NJMC is giving \$20,000 towards a hybrid vehicle, \$100,000 from NJMC to be used towards two police cars, DWI funds; these are all grants that will help reduce the amount to be raised by taxes. The CFO said these items in the 2008 introduced budget so they are going to be able to take them out and have them funded by the grants. He said there will probably be more coming before final adoption. The CFO said grants are not in the budget but they will be in the amended version, he didn't concentrate on that because he wanted the Council to look at the potential problems that they are facing with delinquent tax revenue.

Councilwoman Inguanti said she is concerned if it goes to an estimated tax bill they want to get it balanced in the third quarter so don't they have to find cuts to offset numbers they don't know. The CFO said they are looking at various scenarios, certainly through overtime cuts plus reducing the operation budget for the various grants that they have gotten which will be worked up when they get an estimated tax revenue. Councilwoman Keyes said when mentioning the \$20,000 overtime cut where does that

come from. The CFO referred to Item Four on the agenda, Overtime – Quarterly Report which shows the status of everyone’s budget year-to-date and what the balance is. He said the total of items marked with an arrow totals over \$20,000. The CFO said it includes non-contractual as well as contractual salaries, what they’ve done in the Union contract they have the right to say whether they want comp time or a dollar figure. He said they asked the Dept. Heads to take comp time and they made them see the rationale of doing so; it is easier to cut overtime than it is cut someone’s position, or furloughed and they saw the logic. The CFO said there is \$20,000 that will be amended out of the introduced budget. Councilwoman Keyes said that is non-union and union employees. The CFO said yes, everybody except the Police and DPW; they have had remarkable cooperation from all the employees.

Councilman Genovesi said the Police Dept. has spent \$117,000 for overtime so far this year, how much of that is being reimbursed. The CFO said he would need to talk to John Thompson to see that number. The CFO said he believes to total amount of \$226,000 budgeted for police overtime will come down because of the rehiring of three police officers.

The CFO said in regards to tax appeals comes to \$331,946 which is not going into the 2008 budget, it is going to be spread between four-seven years to be determined by the Local Finance Board. He said there will be a special emergency note that will most likely be paid over five years; the first principal will not be until 2009. Mayor Hipp said that is fairly routine that the Finance Board approves those types of applications.

The CFO said in regards to the legal budget of \$120,000 which was half of what was budgeted in 2007; they actually spent close to \$400,000 in 2007 but this is an account that is probably going to have to be adjusted higher to make room for the Bankruptcy Counsel and the Tax Appeal Counsel. He said one of the things he found out from the Borough Auditors and asked if there was any possibility to take the legal fees from Barbire and include it in the five year emergency and he said that would not be allowed. The CFO said the only legal fee permissible is the cost of issuing the five year note. He said they have encumbered \$63,000 the balance they owe Lane Biviano for the next eight months and the incurred laid out \$96,845 which means an over expenditure. The CFO said that is probably the only line item that will go up.

Mayor Hipp excused himself from the meeting to attend a function at the Kip Center.

The CFO said in regards to gasoline there is a budget of \$205,000 and they only have \$98,000 left which means as of May 15 they used 52% of the budget. He said assuming gasoline prices don’t get any higher and assuming they don’t engage in any kind of economies, they will increase the gasoline budget to \$260,000. The CFO said the Mayor has assured him that he believes the gasoline prices will be coming down between now and the end of the year.

Councilman Genovesi asked how many pieces of equipment does the Borough have and can they get an analysis of how much fuel is spent? DPW Superintendent Chris Seidler responded that they do have a report showing fuel data but not for all vehicles only

those that have an electrical transpondent. Councilman Genovesi asked if Mr. Seidler knew how many gallons of fuel his Department uses daily and Mr. Seidler said he didn't have the information with him. Councilman Genovesi asked if the PD would have that information; the DPW could figure it out because they go on daily routes, but the PD has no set pattern; so he assumes that the PD would be different everyday. Mr. Seidler said he will show them the report. The CFO said Councilwoman Inguanti discussed with him the amount of fuel being used by the street sweepers and suggested cutting back on the street sweeper instead of once a week to once every other week. Mr. Seidler said the sweeper uses about 200 gallons of fuel a month per sweeper and the new sweepers can complete the cleaning by themselves where as the old sweepers needed a garbage truck to follow them around so actually there were two trucks driving with each other and now only one.

Councilman Genovesi asked when the trucks leave the Borough to dump do they have a set route. Mr. Seidler said they have the option of Route 3 or 46. Councilman Genovesi said then they can pretty much know how much fuel. Mr. Seidler said yes but at times the transfer station is closed because they reach the daily capacity limit and in that case they have to go to another location or keep it until the next day to empty it. Councilwoman Inguanti said she thought that may be during July and August they could reduce street sweeping, would that allow him to use that manpower for other work like Tryon Field. Mr. Seidler said it is really just two people that would be freed up. Councilman Sasso suggested that perhaps they could discuss this with the Board of Education to join with them. Mr. Seidler said the DPW purchases their diesel fuel and gas from the County Coop. He said he just received the vehicle list from the Board of Ed who will be gaining access to the pump according to the time for which the trucks or buses need. The CFO said the Board of Ed wants to use the Borough for fuel because they get a better price, however the Borough gets reimbursed dollar for dollar per gallon.

Councilwoman Inguanti said she would like to go over the legal fees one more time because she believes there are other legal fees that get collected. The CFO said the figure of \$120,000 that was budgeted for, does not include the Planning Board Attorney, the Board of Adjustment Attorney, the Prosecutor, the Judge's salary because they all have their own accounts. He said the \$120,000 is not only Lane Biviano but the Bankruptcy Counsel who is helping with the fight against Encap, the Tax Appeal Counsel and incidentally the last bill they received from Paul Barbire was over \$10,000 to give them an idea of the volume of tax appeals and assuming it could be \$5,000 per month that would still be \$60,000 just for tax appeals. Councilwoman Keyes asked what was Lane's salary. The CFO responded it was \$95,000 plus any extra costs such as copying, messenger service, etc. Councilwoman Inguanti said the \$245,000 for Encap was supposed to be out of the Encap escrow but that will be tied up with the whole bankruptcy issue; we have Maraziti's group and what about labor issues with James Guida. The CFO said it has to be accounted as part of the \$120,000 which is not going to be sufficient. Councilwoman Keyes asked if they could get the legal items delineated by user. The CFO said yes that is no problem. Councilwoman Inguanti said she understood that there are lingering bills from last year or part of this year. The CFO said there are about \$17,000 worth of bills outstanding which they have received from Eric Bernstein for work that he has done for the Borough in January, February and March, 2008. He said these were on-going projects that

he had been involved in from prior years. Councilwoman Keyes asked if they were paid yet. The CFO responded that they haven't paid them yet.

Councilwoman Keyes asked about the retirement monies. The CFO said the retirement monies for the two (Captain/Chief) are being worked this way; it was felt that the monies paid in December of 2007 were over and above what should have been paid if they divided it out by five years. He said so they are not putting any money into the budget for the retirements. Councilwoman Keyes asked what he meant if divided out by 5 years, if you were able to spread it out. The CFO said yes, as they did for Caughey. Councilwoman Keyes asked if that decision was made by the Captain and Chief? The CFO said he didn't know what relationship is between Lane Biviano and the Captain and Chief, that he didn't know; but that is not to say that they are not going to be receiving anything, in his opinion they probably will get a dollar for dollar for what they are owed no more, no less. Councilwoman Keyes asked what about the lawsuit? The CFO asked if she was referring to their lawsuit. Councilwoman Keyes said no, they are owed money by the Borough and if we don't pay them the Borough is opening itself up. The CFO said yes, that is possible.

Councilwoman Inguanti said she wasn't aware that there were bills that weren't getting paid. The CFO said he will make copies of Eric Bernstein's bills for January, February and March for them to review.

Councilwoman Inguanti asked if the Borough Clerk had a resolution for Joe Maraziti for \$17,500. The Borough Clerk responded yes there is a resolution for the professional services contract for him. She confirmed that the CFO will provide a print out of each attorney's professional services contract to see where they are at and if they need to be amended, they need to be authorized by the Council. Councilwoman Inguanti asked if they would have that for the June work session. The Borough Clerk said they could have the analysis for the June 17th meeting and then once it is determined that they have to go forward with Mr. Maraziti's to do an amendment to his contract to increase the amount that needs to be expended which needs to be authorized by resolution by the Council. Councilwoman Keyes confirmed that on the report they will see what the budgeted amount was. The CFO said the report is going to show each and every individual attorney who was paid and how was he paid.

Councilman Sasso said when they talk about how much money they spend for everything is there any money that is being generated like a couple of months ago there was a gentlemen from Verizon for the cell phone tower. Councilwoman Inguanti said that information was in the overview in revenue. The CFO said they receive three sources of revenue from the monopole which is constructed at the police station, luckily each vendor gives the Borough \$30,000 per year to lease the space on the tower and every year that \$30,000 is increased by the cost of living and has been increased by around 3%. He said that is \$30,000 every year from the three of them for a total of around \$90,000; they had a company come in and say they will give almost \$1 million for four years but the Borough has to give up all rights for four years. The CFO said it is a one time shot but the thing with one time shots is when they go into 2009 they have two revenue holes; one they are not getting that \$100,000 anymore and two they have to make up that million dollars.

Councilman Sasso said he doesn't necessarily agree with that but instead of making it a cost of living it should be an increase in taxes. The CFO said those contracts were negotiated by a previous Council and he doesn't know at this time if they can go back to have the cost of living changed. The Borough Clerk said Verizon wants to locate on the pole as per the gentlemen that came before the Council in February. The memo from last year detailing their request was located and is now with Lane Biviano for him to look at. The Borough Clerk said that Councilman Fecanin mentioned that he didn't think there was any room left on the pole, so someone needs to look at that.

Councilwoman Inguanti said in the revenue line there is that \$400,000 in the sale of the lease but would that company be willing to buy. CFO said they will do anything 20 years, 40 years there were all kinds of combinations. Councilwoman Inguanti said the Council needs to decide if they want to sell any length of time or do they want to pursue revenue through additional cellular's; for example they take three more in the town and that is it. The Borough Clerk suggested they put it on the June agenda. The CFO said in the introduced budget they put in \$400,000 roughly one lease of the three and that was just for the sake of argument. Councilman Genovesi asked the CFO who actually purchased the monopole? The Borough Clerk responded the Borough, it was originally T-Mobile, Omini-Point. She suggested that the Borough Engineer review this. Councilman Genovesi said they should also focus on whether another monopole should be erected, how do they go about doing that because why not put it along Route 3. Councilwoman Inguanti said she suspects if they talk to a cellular company they probably would have identified places where they would want a pole. Councilman Genovesi suggested they authorize the Borough Engineer to do a study on where the monopole could go.

Councilwoman Inguanti said in regards to the Open Space Grant Application, she spoke with the Borough Engineer and they discussed putting basketball courts back at Memorial Field and talked about redoing the path that follows along the river. She said they also discussed an issue at Wall field. Councilman Sasso said that they should get input from various departments regarding the Wall Field renovations and all of the facilities.

Councilwoman Inguanti said the County will be repaving Jackson Avenue from Lyndhurst to East Rutherford some time in the summer or fall. Councilwoman Inguanti said in driving on Jackson where it turns into Riverside it is noticeable that the curbs are in bad shape there so a thought might be to add that into the budget. Chris Seidler said they usually do the curbs first then the roadway. He said the change in the Mortimer Avenue project resulted in replacing instead of resetting the existing curbs from Pierrepont to Mortimer and they might be able to add the curb work at West Passaic Avenue /Jackson.

Chris Seidler said regarding a sidewalk/curb policy, they are trying right now to total up the linear footage of the list of sidewalks and curbs and determine how much it will cost to replace it. Councilwoman Inguanti said also in establishing this policy, a homeowner called her about replacing a curb and he said he would pay for it as they just want it done. She said she doesn't know if they want to look at that as part of the policy to arrange for a homeowner to do it, maybe then they could waive the application fee or something like

that. Chris Seidler said they need to find out what the fees are for a curb/apron and that might be a way to go. Councilwoman Inguanti said that maybe they want to roll that into a policy.

Councilwoman Inguanti said another item is areas of municipal contributions, some of it is obligatory; the contributions to the Kip Center she had gotten a call from someone questioning that there are a number of people using the Senior Center from out of town and yet they pay money to it. She said her thought was to maybe reach out to some of the other communities and for people who frequent the center perhaps those communities could occasionally offer some service to offset the costs like bus services.

Councilwoman Inguanti discussed the \$18,500 contribution to the Williams Center and perhaps this could be reduced. Councilwoman Keyes said a reduction in the contribution? Councilwoman Inguanti said she is just trying to look at all possible cuts to the budget. Councilwoman Keyes said that she heard that Councilwoman Inguanti was talking about making a contribution to the Bergen County Film Commission. Councilwoman Inguanti said she is not contributing to the film festival, what she would want to do is in discussion with a gentleman who runs the Bergen County Film Commission, they want to have programming for seniors, recreation and that there might be a way to and right now her understanding is that they are being funded largely by donations from towns in the County and she was wondering if the BC Film Commission is bringing revenue in this town/center if there is way to help them. Councilwoman Keyes said most of them know that the County has contributed a couple of million dollars now to the Williams Center, how would it look if the town that the Center is in is reducing the contributions? She said they get money from the County to rehab the Center, they are trying to raise funds there and they are going to take back some money, reduce the money that we give; the Borough only gives \$18,000 dollars. Councilwoman Inguanti said part of her frustration is that they have very little accounting for that \$18,000, they are working on it but she has not seen anything yet. Councilwoman Keyes said if you have doubts, they are barely staying alive, the way they get their money is through the movies, obviously it is only a handful of performing arts. Councilwoman Keyes said maybe she was a little prejudice because she sits on the Board. Councilman Genovesi said he happens to agree with what she was saying, aside from the property maintenance and the ownership of the building that is Bergen County's problem because it is their building, it is in Rutherford but they don't own it. Councilwoman Keyes said yes and thankfully they got the County to step up because for all those years, they did nothing to help the Center to maintain it. She said it was only for the efforts of the former Mayor and Freeholder that they were able to get that money out of the County; nobody in past administrations had gotten any money so she would be totally against reducing that contribution.

Councilman Genovesi asked the CFO what was going on with the Felician sponsorship. The CFO said they haven't heard from them yet, the Mayor wrote them a letter.

Mayor Hipp returned.

Mayor Hipp noted that this is a payment in lieu of taxes to the Borough which is a fraction of the assessed value of the land. The Mayor said the 4th of July funds are an addition to that so figure in the neighborhood of about \$50,000 a year and although they had an agreement last year to pay they did not make a payment until this year. The Mayor said for budgeting purposes it is not going to change the budget in terms of the allocation of the expense it is a revenue item that will come in and when the amount comes in for the 4th of July the line item will be duly noted. Mayor Hipp said he doesn't know when the money is coming in but he will ask the Borough Clerk to prompt him to send a letter and he also has to draft a letter because he will be serving on the Business Advisory Council for the college. The Mayor said they are trying to establish much more of a working relationship with the college for this year and that letter was on his desk.

Councilwoman Inguanti asked Chris Seidler if he wanted to speak about the leaf collection program and the Storm Water Act. Chris Seidler said that the Storm Water Act is conditional that it is at least placed at the curb line in the street unless they remove them in seven days, generally they can comply with that except for those two-three weeks in November/December when it is over-filled with brush and it has overwhelmed them. He said at that point they can not comply. Councilwoman Inguanti said the issues might be leaf bagging and/or landscaper's being required to have a permit and removal or bagging. Chris Seidler said the volume of landscapers is what really puts them over the top; the homeowner's putting leaves in the street they can keep up fairly easily. He said landscapers could have a property of 50 x 100 done in 15 minutes and they do about 15-25 a day, which makes for a lot of leaves. Chris Seidler said he gave numbers on what it cost in daily overtime; which he believes is close to \$2,000 for labor, they also need two pieces of heavy equipment. Councilwoman Inguanti said he was going to look into getting the policy of surrounding towns. Chris Seidler said he and Sharon will get information and have that for the next work session.

Councilman Genovesi mentioned the problem of landscapers blowing leaves and debris all over the streets and Chris Seidler said that is against ordinance. Councilman Genovesi said he sees them doing it all the time and Chris replied that between January 1st and August 30th they are not permitted to put debris in the street. There was discussion on licensing the landscapers.

Councilwoman Inguanti said that concludes her agenda.

Mayor Hipp opened the hearing of citizens, as no one wished to speak the hearing was closed.

*

*

*

Councilwoman Keyes moved to adjourn at 11:40 a.m., seconded by Councilwoman Inguanti with all members present voting aye.

Borough Clerk