

118. Executive Meeting of the Mayor and Council of the Borough of Haworth held on May 12, 2015 at the Municipal Center

Present: Hon. John W. Smart, Mayor

Councilmembers: Glenn Poosikian
Mary Anne Groh
Andrew Rosenberg
Anthony Volpe
Michael Bain
Lawrence Weiss

Borough Attorney: Robert T. Regan

Mayor Smart called the meeting to order at 8:00 PM and upon roll call all members of the Council were present. The Mayor then read the following statement: "This is an Executive Meeting of the Mayor and Council of the Borough of Haworth. I am informed by the Clerk that adequate public notice has been provided by mailing notice to The Record, by posting a notice on the bulletin board in the Municipal Center, by filing a copy of the notice in the office of the Municipal Clerk and by mailing notice to all persons who requested same and prepaid the same."

Proclamation Honoring Sabina London, One of New Jersey's Top Youth Volunteers

Mayor Smart noted that Ms. London, a junior at Northern Valley Regional High School in Demarest has been interested in science since grade school, writing a curriculum including experiments in energy, global warming, the solar system and giving her time to develop a program providing free summer camps for elementary and middle school girls to spark their interest in science including a science camp at the Haworth Library. He said she has been honored for demonstrating an extraordinary commitment to serving her community.

Mayor Smart then issued a proclamation officially proclaiming May 12, 2015 as Sabina London Day in the Borough of Haworth.

Ordinance No. 15-07 –Prohibiting Smoking in Parks, Recreational Areas, etc.

A motion was offered by Mr. Weiss, seconded by Mr. Bain and unanimously carried that Ordinance No. 15-07 be offered for second reading.

Ordinance No. 15-07 which is as follows was read by title only as copies had been provided for those present:

119. Executive Meeting of May 12, 2015

Ordinance No. 15-07 –Prohibiting Smoking in Parks, Recreational Areas, etc. – cont'd.

The meeting was opened to the public on Ordinance No. 15-07. As there were no comments the meeting was closed to the public on this ordinance.

Ordinance No. 15-07 –Prohibiting Smoking in Parks, Recreational Areas, etc. – cont’d.

A motion was offered by Mr. Bain and seconded by Mrs. Groh that Ordinance No. 15-07 be passed on second and final reading.

On roll call the vote was as follows: Ayes; Messrs. Poosikian, Groh, Rosenberg, Volpe, Bain, Weiss. Nays– none. Declared carried.

A motion was offered by Mr. Poosikian, seconded by Mr. Weiss and unanimously carried that the passage of Ordinance No.15-07 be advertised as required by law.

Correspondence

<u>Letter From</u>	<u>Subject</u>	<u>Referred to</u>
Bergen County Planning Department	Notice of Public Hearing, May 26 th Open Space Allocations	All Council Posted
DARE New Jersey	Notice of Discontinuance of Program in New Jersey	All Council Police
NJ Dept. Transportation	Unable to Provide Funding for Grants for Whitman Street and Maple Street Improvements	All Council

Award of Bid for Operation of Snack Bar at Swim Club

The following resolution was offered by Mr. Weiss, seconded by Mr. Rosenberg and unanimously carried:

WHEREAS, following public advertisement, sealed bids for Request for Proposals for a Food Service Concession (Snack Bar) at the Haworth Swim Club for the 2015 Pool Season were received by the Municipal Clerk on May 5, 2015 and;

WHEREAS, one bid was received at that time.

NOW THEREFORE BE IT RESOLVED that the bid received be awarded to Michael Dawson, 77 Pleasant Street, Haworth, NJ 07641 in the amount of \$2,000.00.

Authorization to File Declaratory Judgement Action

The following resolution was offered by Mr. Rosenberg, seconded by Mrs. Groh and unanimously carried:

Authorization to File Declaratory Judgement Action – cont’d.

WHEREAS, in 1975 the Supreme Court of New Jersey in *South Burlington County N.A.A.C.P. v. Township of Mount Laurel*, 67 N.J. 151 (1975), ruled that the developing municipalities in the State of New Jersey exercising their zoning power, in general, had a constitutional obligation to provide a realistic opportunity for the construction of their fair share of the region’s low and moderate income housing needs; and

WHEREAS, in 1983, the Supreme Court refined that constitutional obligation in *South Burlington County N.A.A.C.P. v. Township of Mount Laurel*, 92 N.J. 158 (1983), to apply to those municipalities having any portion of their boundaries within the growth area as shown on the State Development Guide Plan; and

WHEREAS, in 1985, the New Jersey Legislature adopted, and the Governor signed the Fair Housing Act (“FHA”) which transformed the judicial doctrine which became known as the “*Mount Laurel* obligation” into a statutory one and provided an alternative administrative process in which municipalities could elect to participate in order to establish a Housing Element & Fair Share Plan (“HE&FSP”) that would satisfy its constitutional obligation by creating an administrative agency known as the Council on Affordable Housing (“COAH”) to develop regulations to define the obligation and implement it; and

WHEREAS, COAH proceeded to adopt regulations for the first round obligations applicable from 1987 to 1993 and second round obligations that created a cumulative obligation from 1987 to 1999; and

WHEREAS, prior to the expiration of the second round regulations, COAH embarked upon a process to develop third round regulations utilizing a different methodology for the calculation of a municipality’s affordable housing obligation that became known as the growth share methodology; and

WHEREAS, the Borough of Haworth (“Borough”) received Second Round Substantive Certification from the New Jersey Council on Affordable Housing (“COAH”) on or about March 3, 1999 that addressed its cumulative second round affordable housing obligation; and

WHEREAS, COAH adopted the first iteration of growth share regulations in 2004 which were invalidated by the Appellate Division in 2007; and

WHEREAS, COAH adopted a second and third iteration of the third round regulations in an attempt to accommodate the Appellate Division’s decision in 2008; and

WHEREAS, the Borough filed its 2008 Third Round Housing Element & Fair Share Plan with COAH and petitioned for Substantive Certification on December 30, 2008, in accordance with the third iteration of the third round regulations; and

Authorization to File Declaratory Judgement Action – cont’d.

WHEREAS, the third iteration of the third round regulations were invalidated by the Appellate Division in 2010, which determined, among other things, that the growth share methodology was invalid and that COAH should adopt regulations utilizing methodologies similar to the ones utilized in the first and second rounds, i.e. 1987-1999; and

WHEREAS, on September 26, 2013, the Supreme Court of New Jersey affirmed the Appellate Division’s invalidation of the third iteration of the third round regulations, sustained their determination that the growth share methodology was invalid, and directed COAH to adopt new regulations based upon the methodology utilized in the first and second rounds; and

WHEREAS, COAH proceeded to propose such regulations in accordance with the schedule established by the Supreme Court; and

WHEREAS, on October 20, 2014, COAH deadlocked on the adoption of the revised regulations; and

WHEREAS, Fair Share Housing Center (“FSHC”), an interested party and housing advocacy group filed a motion with the Supreme Court to enforce litigant’s rights in light of COAH’s deadlock and subsequent inaction; and

WHEREAS, on March 10, 2015 the Supreme Court issued its decision on FSHC’s motion to enforce litigant’s rights and in doing so established a procedure for municipalities to utilize to transition their applications pending before COAH to the judicial system in order to achieve similar protections that the municipality would have received had the COAH process proceeded; and

WHEREAS, the procedure established by the Supreme Court requires that by July 8, 2015 a participating municipality (of which the Borough is one), bring a Declaratory Judgment action in the Law Division of the Superior Court before the designated Mount Laurel judge on notice and an opportunity to be heard to a variety of entities, to declare the municipality’s HE&FSP as being constitutionally compliant; and

WHEREAS, the Supreme Court gave the Borough the right to seek temporary immunity from third party lawsuits while it pursues its Declaratory Judgment action; and

WHEREAS, on April 9, 2015 the Appellate Division issued its decision in the case entitled *In re Failure of the Council on Affordable Housing to Adopt Trust Fund Commitment Regulations*, Docket No. A-5257-11T4 and Docket No. A-0122-13T3 wherein they divested COAH of jurisdiction to effect a forfeiture of Affordable Housing Trust Funds not spent or committed to be spent within four years of their receipt and transferred jurisdiction over any such actions to the 15 Mount Laurel designated judges who would also be hearing the Declaratory Judgment actions abovementioned; and

Authorization to File Declaratory Judgment Action – cont'd.

WHEREAS, there remains pending before COAH unapproved Spending Plans potentially preventing municipalities from utilizing their Affordable Housing Trust Funds in an appropriate manner; and

WHEREAS, in light of the transition of jurisdiction to effect a forfeiture of Affordable Housing Trust Funds to the Court, it is appropriate to seek approval for any unapproved Spending Plan by the Court as part of the Declaratory Judgment action, if circumstances warrant; and

WHEREAS, the Borough desires to authorize the initiation of a Declaratory Judgment action in order for the Borough to proceed to validate a HE&FSP to be prepared by the Borough Planner; to seek temporary immunity while it pursues the Declaratory Judgment action; and to take all ancillary actions associated therewith to accomplish that objective.

NOW, THEREFORE, BE IT RESOLVED by the Governing Body of the Borough of Haworth, County of Bergen, State of New Jersey as follows:

1. Robert T. Regan, Esq. is hereby authorized and directed to initiate a Declaratory Judgment action in the Superior Court of New Jersey, Law Division, Bergen County, to seek a declaration that the Borough's HE&FSP, to be prepared by the Borough Planner, is constitutionally compliant and satisfies the Borough's affordable housing obligation for the period ending in Year 2025, or such other time period as may be determined by subsequent proceedings and to seek approval of its Spending Plan, if appropriate.

2. Said Declaratory Judgment action shall be filed no later than July 8, 2015, the deadline set forth in the Supreme Court decision above referenced, for the filing of such an action.

3. Simultaneous with the filing of the Declaratory Judgment action, Robert T. Regan, Esq. is hereby authorized and directed to seek and obtain temporary immunity from any third party lawsuits associated with the Borough's affordable housing obligation, for a minimum period of five (5) months or such other time as the Court may direct, in order to allow the Borough and its Planner to complete a revised HE&FSP to reflect and accommodate the Borough's affordable housing obligation through Year 2025, or such other time period as may be determined by subsequent proceedings.

4. The Governing Body requests the Planning Board to authorize the Borough Planner to prepare a revised HE&FSP as part of the Master Plan of the Borough which, among other things, will establish the affordable housing obligation of the Borough through year 2025, or such other time period as may be determined by subsequent proceedings, and further establish a mechanism to satisfy that obligation.

Authorization to File Declaratory Judgement Action – cont’d.

5. The Borough requests that the Governing Body representatives participate in the review of the HE&FSP prior to its public hearing and disposition by the Planning Board inasmuch as the Borough will be required to endorse the same as part of its proceedings to obtain the protections to be afforded to it through the Declaratory Judgment action abovementioned.

6 Robert T. Regan, Esq. and Caroline Reiter of Statile Associates, PA and all other appropriate Borough professionals, employees, elected, and appointed officials are hereby authorized and directed to take any and all steps necessary to effectuate the purposes of this Resolution.

7. This Resolution shall take effect immediately.

Refund of Overpayment of 2015 Real Estate Taxes

The following resolution was offered by Mrs. Groh, seconded by Mr. Volpe and unanimously carried:

BE IT RESOLVED, by the Mayor and Council of the Borough of Haworth that the Tax Collector be authorized to refund the overpayment of 2015 property taxes to the following homeowner:

<u>BLOCK</u>	<u>LOT</u>	<u>REFUND TO:</u>	<u>2015 TAXES</u>
804	6	Irving Freeman 457 Herkimer Ave. Haworth, NJ 07641	\$ 994.03
		Total	\$ 994.03

Payment of Bills

The following resolution was offered by Mrs. Groh and seconded by Mr. Volpe:

FOR COPY OF RESOLUTION AND BILL LIST
SEE PERMANENT MINUTES
PAGES 128A – 128M

On roll call the vote was as follows: Ayes; Messrs. Poosikian, Groh, Rosenberg, Volpe, Bain, Weiss. Nays – none. Declared carried.

Request for Continuing Use of Borough Easement, Paulson Place

Mr. Rosenberg reported Mr. Regan has prepared a draft agreement in this matter which will be sent to the Real Estate Committee for review.

2015 Municipal Budget

Mrs. Groh reported the Finance Committee met regarding amendments for the budget and a timetable; the budget can be adopted at the second meeting in June with amendments scheduled for the first June meeting. She said she is still working on information in connection with BCUA billing including location of meters, obtaining actual data re. charges regarding excessive flows from Storm Irene, passing on the costs for excess users and there will be more information coming in.

Mrs. Groh then noted she is still working on the Library budget, particularly various utility charges and that the sidewalk in the front of the library is in need of repair.

Mr. Bain explained he has received two quotes for this work and Mrs. Groh said \$1200 would be added in the budget.

Mr. Rosenberg referred to the "in car video system" which has been requested, however since this is an unfunded mandate, the Police Chief has recommended eliminating this from the capital budget this year and the Voice Recording System which was \$10,000 in the budget is now \$3,000 less.

Mrs. Groh then said the Tennis Committee has requested new benches at the courts and now there is the need for screens and nets which could be funded from capital surplus.

Since the screens and nets are needed now, a motion was offered by Mrs. Groh, seconded by Mr. Bain authorizing the purchase of nets and screens for the tennis courts at an amount not to exceed \$1,000 to be funded through capital surplus.

Mrs. Groh questioned the stretcher requested by the Ambulance Corps.

Mr. Poosikian explained the background of the previous stretcher purchase and this one is now for the second truck. Mrs. Groh agreed to include the item in the capital budget.

Mrs. Groh then noted that the pick-up truck for the Police Department has been eliminated from the budget.

Mr. Rosenberg discussed the age of the police vehicles and the need for more repairs according to their age.

Financial Disclosure Forms

Mrs. Groh reported that seven individuals have not filed their forms at this date and discussed scheduling a meeting with the Ethics Board.

Ambulance Corps Building Addition

Mrs. Groh asked if a Certificate of Occupancy has been issued for this project.

Mr. Poosikian responded that he would check on the status.

Department of Public Works

Mr. Poosikian reported that Robert O'Brien was hired in July 2013 for a six month probationary period on the condition of obtaining his CDL license and joining the Fire Department; he now has passed the CDL requirement and it is the recommendation of the DPW Superintendent and the DPW Committee that he be moved to a regular member of the Department

A motion was offered by Mr. Poosikian and seconded by Mr. Volpe that Robert O'Brien be approved to move from a probationary member to a regular member of the Department of Public Works.

On voice vote all members voted in the affirmative with the exception of Mrs. Groh who voted no. Declared carried.

Open Meeting to Public

The meeting was opened to the period of public discussion.

Mr. M. Kolonko, Haworth Avenue noted his concerns regarding parking and traffic at the Haworth School, early morning snow plowing and leaf blowing and said there should be a tax reduction for those who live in the area of the school. He said he filed a complaint with the Police Department regarding parking on Valley Road at the school and discussed his encounter with the Department concerning this matter.

Mayor Smart asked Mr. Rosenberg to review the parking at the school with the Police Chief and told Mr. Kolonko regarding his property tax relief statement that he could file a tax appeal.

Mrs. Groh noted the leaf blowing at the school at early hours.

Mr. Kolonko noted the lack of tree pruning in town.

Open Meeting to Public – cont'd.

Mr. Poosikian explained the Borough's tree pruning and planting.

As there were no further comments, the meeting was closed to the period of public discussion.

Close Meeting to Public

The following resolution was offered at 9:25 PM by Mrs. Groh, seconded by Mr. Rosenberg and unanimously carried:

WHEREAS, *N.J.S.A. 10:4-12B* permits a public body to exclude the public from the portion of a meeting at which certain items are discussed; and

WHEREAS, the Governing Body deems it necessary to conduct a closed session and to exclude the public on May 12, 2015 at which time the following items will be discussed:

Haworth Swim Club
Ambulance Corps Building
Billing Matter

NOW THEREFORE BE IT RESOLVED that the Mayor and Council does hereby exclude the public from the portion of the meeting at which the above item will be discussed; and

BE IT FURTHER RESOLVED that the discussion conducted in closed session will be disclosed to the public upon completion or conclusion of the foregoing items and when determined by the Governing Body that the Borough's interests will not be adversely affected.

Reopen Meeting to Public

The meeting was reopened to the public at 9:40 PM.

Billing

Mrs. Groh referred to a bill from the Ambulance Corps to the Fire Department for CPR training which she said was the first of such charges she has seen.

Mr. Poosikian said he would look into the matter and how it was done in the past.

St. Gabriel's Church

Mr. Volpe referred to the opening of the church last Sunday.

Mayor Smart said it was heavily attended, their patriarch from Syria was in attendance and explained the service. He said there was a gradual arrival of participants and the church is sensitive to being good neighbors.

Mr. Volpe commented that he received calls regarding the parking at the church, noted the resolution regarding parking and there was parking in the fire lanes.

It was concurred to monitor the parking when the regular use of the church gets underway.

As there was no further business to come before the Council a motion was offered at 9:50 PM by Mrs. Groh, seconded by Mr. Bain and unanimously carried to adjourn.

Ann E. Fay, RMC, CMC
Clerk-Administrator

