



# BOROUGH OF LEONIA

## REGULAR COUNCIL MEETING

~ Minutes ~

305 Beechwood Pl  
Leonia, NJ 07605  
www.leonianj.gov

Lynn Hemmer, Acting Borough Clerk

Wednesday, September 5, 2012

7:30 PM

Borough Annex

A Regular Council Meeting of the Mayor & Council of the Borough of Leonia, Bergen County, New Jersey, was held this evening in the Borough Hall Annex, Commencing at 7:30 PM

Mayor John DeSimone called the meeting to order.

### 1. FLAG SALUTE

### 2. ROLL CALL

Attendee Name	Title	Status	Arrived
Peter Knott	Council President	Present	
Philip Choi	Councilman	Present	
Gil Hawkins	Councilman	Present	
I.S. Pak	Councilman	Absent	
Doug Salmon	Councilman	Present	
Darryl Whitter	Councilman	Present	
John DeSimone	Mayor	Present	
Jack Terhune	Administrator	Present	
Lynn Hemmer	Acting Borough Clerk	Present	
Brian T. Giblin	Borough Attorney	Present	

### 3. OPEN MEETING STATEMENT

Conditions of the Open Meeting Act have been met by Notice placed on the Bulletin Board at Borough Hall and notice sent to the Official Newspaper.

### 4. PRESENTATION

### 5. APPOINTMENTS

### 6. COMMENTS FROM THE PUBLIC

### 7. APPROVAL OF MINUTES

#### 1. Council - Regular Council Meeting - Aug 13, 2012 7:30 PM

<b>RESULT:</b>	<b>ACCEPTED [UNANIMOUS]</b>
<b>MOVER:</b>	Gil Hawkins, Councilman
<b>SECONDER:</b>	Peter Knott, Council President
<b>AYES:</b>	Knott, Choi, Hawkins, Salmon, Whitter
<b>ABSENT:</b>	I.S. Pak

#### 2. 2012-11 Closed Minutes - August 13, 2012

**RESULT:** ADOPTED [UNANIMOUS]  
**MOVER:** Gil Hawkins, Councilman  
**SECONDER:** Philip Choi, Councilman  
**AYES:** Knott, Choi, Hawkins, Salmon, Whitter  
**ABSENT:** I.S. Pak

## 8. RESOLUTIONS

### 1. RES-2012-206 2012/2013 Crossing Guards

**RESULT:** ADOPTED [UNANIMOUS]  
**MOVER:** Gil Hawkins, Councilman  
**SECONDER:** Darryl Whitter, Councilman  
**AYES:** Knott, Choi, Hawkins, Salmon, Whitter  
**ABSENT:** I.S. Pak

### 2. RES-2012-207 Block Party - Palmer Place

**RESULT:** ADOPTED [UNANIMOUS]  
**MOVER:** Gil Hawkins, Councilman  
**SECONDER:** Darryl Whitter, Councilman  
**AYES:** Knott, Choi, Hawkins, Salmon, Whitter  
**ABSENT:** I.S. Pak

### 3. RES-2012-208 Property Tax Appeal Block 505, Lot 2 490 Broad Ave

Councilman Hawkins commented in the past the Mayor & Council was only given the resolutions to approve tax appeals, nowadays it is an easier method to approve with the supported documentation attached.

**RESULT:** ADOPTED [UNANIMOUS]  
**MOVER:** Gil Hawkins, Councilman  
**SECONDER:** Darryl Whitter, Councilman  
**AYES:** Knott, Choi, Hawkins, Salmon, Whitter  
**ABSENT:** I.S. Pak

### 4. RES-2012-209 Appointing Planning Board Alternate Members

**RESULT:** ADOPTED [UNANIMOUS]  
**MOVER:** Gil Hawkins, Councilman  
**SECONDER:** Darryl Whitter, Councilman  
**AYES:** Knott, Choi, Hawkins, Salmon, Whitter  
**ABSENT:** I.S. Pak

### 5. RES-2012-210 Amending Resolution 12-203 - Signatories

**RESULT:** ADOPTED [UNANIMOUS]  
**MOVER:** Gil Hawkins, Councilman  
**SECONDER:** Darryl Whitter, Councilman  
**AYES:** Knott, Choi, Hawkins, Salmon, Whitter  
**ABSENT:** I.S. Pak

**6. RES-2012-211 Recreation Roof - Engineering Proposal**

**RESULT:** ADOPTED [UNANIMOUS]  
**MOVER:** Gil Hawkins, Councilman  
**SECONDER:** Darryl Whitter, Councilman  
**AYES:** Knott, Choi, Hawkins, Salmon, Whitter  
**ABSENT:** I.S. Pak

**7. RES-2012-212 Appointment of the Administrative Assistant**

**RESULT:** ADOPTED [UNANIMOUS]  
**MOVER:** Gil Hawkins, Councilman  
**SECONDER:** Darryl Whitter, Councilman  
**AYES:** Knott, Choi, Hawkins, Salmon, Whitter  
**ABSENT:** I.S. Pak

**8. RES-2012-213 Authorizing Robert Biagiotti, Esq. to Represent I. Commike**

**RESULT:** ADOPTED [UNANIMOUS]  
**MOVER:** Gil Hawkins, Councilman  
**SECONDER:** Darryl Whitter, Councilman  
**AYES:** Knott, Choi, Hawkins, Salmon, Whitter  
**ABSENT:** I.S. Pak

**9. RES-2012-214 Licensed Site Remediation Professional**

**RESULT:** ADOPTED [UNANIMOUS]  
**MOVER:** Gil Hawkins, Councilman  
**SECONDER:** Darryl Whitter, Councilman  
**AYES:** Knott, Choi, Hawkins, Salmon, Whitter  
**ABSENT:** I.S. Pak

**10. RES-2012-215 RFP Sylvan Pk Landscape Maintenance**

**RESULT:** ADOPTED [UNANIMOUS]  
**MOVER:** Gil Hawkins, Councilman  
**SECONDER:** Darryl Whitter, Councilman  
**AYES:** Knott, Choi, Hawkins, Salmon, Whitter  
**ABSENT:** I.S. Pak

**9. INTRODUCTION OF ORDINANCE**

**10. ADOPTION OF ORDINANCE**

## 11. UNFINISHED BUSINESS

## 12. NEW BUSINESS

### 1. Art Displays for vacant storefronts - Councilman Knott

Councilman Knott explained that he recently saw a report in which art work was being displayed in vacant store fronts to give the central business districts area a sense of vibrance. The store owners, and realtors welcomed the idea hoping that it would attract more people to the area, feeling that it gave the impression that the downtown area is less blighted then it might be otherwise. It is certainly better than having the windows covered with brown paper.

Mayor DeSimone agreed that it was a good idea and feels it would improve the look of the downtown area, stating that Leonia has a large number of local artists.

Councilman Hawkins added that there are currently two (2) local artist groups and perhaps if the Mayor and Council gave the groups their approval they could work at obtaining art work and getting in touch with the store owner/landlords. The only concern would be the liability responsibility. Who would be responsible should something happen to the art work while it is being displayed. Councilman Hawkins asked if the artwork would fall under the JIF Insurance umbrella.

Borough Administrator Terhune explained that the JIF insurance guidelines have changed and now has a \$2500.00 dollar deductible with an appraisal value of \$10,000.00.

Councilman Knott with the approval of the Mayor and Council will contact the Arts Council in Patchogue which is using this store arts program.

### 2. Electrical Vehicle (EV) Charging Stations - Councilman Knott

Councilman Knott recommended that the Borough explore the possibility for Electric Charging Stations. He explained that two residents had suggested encouraging the Governing Body to look into this as a possible addition to the local municipal parking lots, or solar canopies with charging stations attached.

Councilman Hawkins again agreed that this is something that would move us away from reliance on fossil fuels; and he believes the Council has the responsibility to investigate alternatives to fossil fuels; a topic that has been discussed at previous Council Meetings. Councilman Hawkins also suggested that the Borough encourage Bergen County to install bicycle lanes on Fort Lee Road where it has become increasingly dangerous for cyclists. Councilman Hawkins recommended that this is something the Green Team should be advised to review.

Councilman Salmon added that perhaps New Jersey should look into what California is doing in regards to the charging stations. Public utilities and some subsidiaries have helped with the installation of charging stations in public garages. They have also opted not charging for parking or for the charging stations to promote the usage. Not sure if PSE & G would be willing to do this, but it's something to look into. Other issues to consider are the fact that not only are there different voltages, but the efforts to standardize the plug so far haven't produced much standardization. Councilman Salmon would support it if it was feasible. Unfortunately this will

not fit our parking scheme because we don't allow parking beyond two (2) hours, but for shoppers it could fit in, and yet commuters are our best target because it's the first few miles to the station that is best for electric vehicles not the long trip.

Mayor DeSimone added perhaps we should inquire how many hybrid/electric vehicles there are in the Borough.

**3. FY 2013 NJDOT Municipal Aid Grant Application - Administrator Terhune**  
Borough Administrator Terhune reminded the Mayor & Council the 2013 NJDOT Grant's deadline is October 16, 2012, The Grant is all done electronically and it usually takes approximately a week or two (2) to put together the engineers estimate so please review it and make any suggestions. Historically the last few years the grant has been approximately 150,000.00. This year the money is going to the repairs and resurfacing of Oakdene Avenue.

### 13. **COMMENTS FROM THE PUBLIC (Agenda and Non-Agenda items)**

Leah Roland - 186 Christie Street, supports Councilman Knott's window dressing idea. Ms. Roland suggested if it should become a problem with the insurance coverage, perhaps we could go to the Leonia School's art departments and suggest that the students draw something on the brown paper that covers the vacant shops.

Ms. Roland also feels that the bike lanes idea is also something that should be looked into.

On another note Ms. Roland inquired why the Council voted on a resolution for an attorney to represent a Borough Employee and why the town Attorney cannot represent the employee. Borough Attorney Giblin response was that a Borough Attorney is not permitted to represent any individual employee; he can only represent the Borough as a whole.

Peter Pulice - 187 Sylvan Avenue, merchant owner of 344 Broad Avenue, Mr. Pulice addressed the Mayor and Council to reexamine ordinance 10-07 section 290-24H, (No establishment offering manicures and/or pedicures, commonly referred to as a "nail salon," shall be located within 500 feet of any establishment offering the same type of services.) Added, 5-7-2007 by Ord. No 10-07.

Mr. Pulice is in the process of leasing his building at 344 Broad Ave after it was vacant for several months to become an "upscale" nail salon. Mr. Pulice has entered into an agreement with the lessee predicated by a Planning Board application that Mr. Pulice submitted in July 2012. He assisted the lessee with the application, drawing signage, expert testimony. The whole process went before the Planning Board which had a positive reaction. However this ordinance did come up and at the time the Attorney for the Planning Board, Mr. Alampi stipulated that this Ordinance was not quite right and would not hold up in the Superior Court, and that this would become unconstitutional because it did not represent a situation harming the general public. Mr. Pulice added that he felt it was bias against a certain kind of retail store. Mr. Pulice stated that he received votes in favor of the applicant 6 to 1 and received permits and started construction. Now he has been informed by Mr. Alampi that he should go for use variances which can be very expensive. Mr. Pulice feels that this is an unfair request that he and his family have to take this additional burden. At this time he is asking the Mayor and Council for their guidance, he explained that he handles numerous zoning and planning applications in this town and this is the first time this has happened to him.

Mayor DeSimone asked Borough Attorney Giblin if this was an enforceable Ordinance.

Borough Attorney Giblin explained that Ordinances have to be followed until they are repealed or declared judicially invalid. He reminded the Mayor and Council that this Ordinance, like all other Ordinances, was passed properly and it exists right now. The only way to repeal it is the same way you would enact an Ordinance. It will take two (2) meetings of the Mayor and Council with at least ten (10) days in between and it will have to be referred to the Planning Board. We are looking at least a couple of months for the Mayor and Council to take action.

Councilman Salmon asked isn't it possible to modify it, seems they have done that in certain cases, Attorney Giblin answered no.

Councilman Hawkins inquired what happens if the Council decides to take any action, or no action against Mr. Pulice and his tenants in enforcing the Ordinance. Borough Attorney Giblin answered that first of all the Mayor and Council doesn't take action, that's up to the Building Department, and added that he can be at risk if interested competitors challenge the approval on the grounds that there was an Ordinance and he didn't comply with it, he needed a variance and didn't get it is always a possibility.

Councilman Salmon said it seems to be two (2) separate issues or parts at hand, 1. Being something Mr. Pulice would like accomplished, 2. And the time frame for job to be done. The latter question is more difficult because we have no way of changing the clock.

Councilman Choi explained the town needs this Ordinance, even though he sympathizes with Mr. Pulice he also has had several nail salon merchants whom are Korean come and complain about this situation. Councilman Hawkins mentions that one of the merchants even attended the Planning Board to state their opposition.

Mayor DeSimone asked for a new Ordinance to rescind this Ordinance be placed on the agenda for the next meeting. Councilman Whitter mentioned that everyone will then get to vote and voice their opinion; also the merchants get to have their say.

Discussion ended with all parties in agreement and that they will do the right thing and what is expected of them.

#### **14. CORRESPONDENCE**

Councilman Hawkins read a letter sent by the American Legion requesting a shooting range, attached was also a recommendation from Police Chief Ziegler. Borough Administrator Terhune deferred to Borough Attorney Giblin whom he forwarded the document for him to review because there is an Ordinance that states the Mayor and Council have to approve any type of shooting range. The Council agreed to have this item placed on the next agenda under new business.

Mayor DeSimone added that he received a call from Ellie Spiegel inviting the Mayor and Council to a vigil for peace on September 21, 2012, at the church.

Councilman Hawkins added that the Overpeck Preserve Dinner is also coming up on October 14,

2012 and the Hackensack River Keeper will make a guest appearance and explain what the Overpeck and Hackensack River means to the county. Councilman Knott asked Councilman Hawkins if he heard anything about the remediation of the preserve. Mr. Hawkins explained that he hasn't heard but applications have been sent to the county. He also added that the County is going to put up \$5 million into remediating the Overpeck Preserve. He understands this to be the final phase.

## 15. CLOSED SESSION

whitter - ini

Knott - second

<b>RESULT:</b>	<b>ADOPTED [UNANIMOUS]</b>
<b>MOVER:</b>	Darryl Whitter, Councilman
<b>SECONDER:</b>	Peter Knott, Council President
<b>AYES:</b>	Knott, Choi, Hawkins, Salmon, Whitter
<b>ABSENT:</b>	I.S. Pak

## 16. ADJOURNMENT