

**BOROUGH OF RIVER EDGE
MAYOR AND COUNCIL
WORK SESSION MINUTES
MONDAY, OCTOBER 3, 2016**

PRESENT:

Mayor	Edward J. Mignone
Councilman	Vito Acquafredda
Councilman	Alphonse Bartelloni
Councilwoman	Ellen Busteed
Councilwoman	Mary Davis
Councilwoman	Kathleen Murphy
Councilman	Thomas Papaleo (arrived at 6:45 PM)

ALSO PRESENT:

Borough Attorney	Thomas Sarlo
Borough Administrator	Alan Negreann
Borough Clerk	Stephanie Evans

ABSENT:

None

Mayor Mignone called the meeting to order 6:30 PM by reading the Open Public Meetings Act and asking for a roll call.

MOTION TO SUSPEND WORK SESSION AND ENTER INTO CLOSED SESSION @ 6:30PM

Motion by Councilwoman Murphy, second by Councilman Bartelloni to approve.
All in favor 5-0

CLOSED SESSION DOCKET#	ITEM TITLE OR DESCRIPTION	STATUTORY REFERENCE
16-10/3-1	LITIGATION UPDATE 7-ELEVEN	10:4-12(7)
16-10-/3-2	LITIGATION UPDATE COAH	10:4-12(7)

MOTION TO ADJOURN CLOSED SESSION AND RETURN TO WORK SESSION @ 7:12PM

Motion by Councilwoman Murphy, second by Councilman Bartelloni to approve.
All in favor 6-0

BOROUGH ADMINISTRATOR'S TOPICS

Nothing for this meeting.

WORK SESSION CONSENT AGENDA

1. Reimbursement of License/Certification Renewal for Jason Milito.
2. Reimbursement of License/Certification Renewal for Stephanie Evans.
3. Refund Construction Bond for Shade Tree to Quality Construction for the Property Located at 233 Beech Court in the amount not to exceed \$8,523.40
4. Amend Agreement with Richard Mehrman, Consulting Engineer to Perform Inspections for 7-Eleven, 125 Kinderkamack Rd in the amount not to exceed \$3,000.00

Motion by Councilwoman Murphy, second by Councilman Bartelloni to approve.
All in favor 6-0

FOR DISCUSSION

- 1. Draft Ordinance on Abandoned Properties** – Mr. Sarlo explained that he drafted the ordinance and tonight for discussion only and a discussion can be continued on this ordinance. Most towns have a vacant and abandoned ordinance that was enacted during the housing crisis and foreclosures were at a high rate and people were leaving and no one was taking care of the property. You have somewhat of an ordinance under your property maintenance and somewhat of an abandonment ordinance, you have something about property maintenance with regard to cleaning the property, however, this ordinance tightens it up, sets some fees with it. Mayor Mignone had asked and it was included now, this expands what is meant by “abandoned”. He thinks one of the cases the borough had seen that was problematic was where someone had started building a house and left during mid-construction and in a state of poor condition. Mr. DeRosa was out there a number of times and there was a leverage against the builder to bring the building to some kind of acceptable state. He believes with the provisions of this, this will put some more parameters around what defines a prosecuted building permit or something to that affect, is that correct. Mr. Sarlo agreed with that and stated there are two parts to this, the abandoned property part is by New Jersey Statute, that he can’t change those requirements. However, there is also the “vacant property” one, and that is the one we were able to change and include what the Mayor is saying in there about changing saying of the, including some of the language, if it becomes vacant and/or abandoned if someone just leaves it half done and you see no work there. Mr. Sarlo went through the ordinance briefly, the first part is, actually there is going to be a change, as you can see there is Section 1 Definitions, and Section 1 Registration, let’s just skip on the numerical part of it. Definitions, again abandoned property is set by Statute, if you go Registration here are we talking about abandoned property saying any property that becomes vacant or house that becomes vacant for 30 calendar days the owner has to register with the borough now that it becomes vacant, and it explains the process. The realtors up here may say that maybe someone is selling or sells their house, moves somewhere else but hasn’t sold their house and the house is vacant for 30 days do they need to register their house because its vacant, there is no body living there, he doesn’t believe this is what the intent is of this. The vacant is that it is up for sale and he was thinking of that and maybe there could be some type of provision in there that if it is under contract or under a real estate broker that it is up for sale or something like that. His concern would be if someone just sticks up a for sales sign, how do we govern that, he was thinking of that knowing Council may raise that. Section 2 is the Criteria for Abandonment, again this is set by Statute and he thinks it’s important because there has already been some complaints on houses regarding that fit right in this category. Responsible of the Owner/Agent this is pretty much if the notices would go to, again the requirements of what they need if it is vacant and abandoned, this is coming right from your statute as it is now, it wasn’t changed, he incorporated Section 4 that we have under our Property Maintenance, he pretty much cut and pasted it. If you want to change it, this is what you have now. He incorporated Section 5 Access to Vacant Properties, your Property Maintenance Inspector has the right to go in once the property is registered as vacant. Fees, he looked around at a bunch of towns and they ranged from registering from \$100 to \$1,000 and every year thereafter it went up to \$2,500, Montclair was \$5,000, it was crazy. He throw in here \$500.00 and \$1,000, that is what you can do or what you can change, the only other thing that he was concerned about is if the house becomes vacant or abandoned on December 1st and they pay the \$500.00, he believes it has in the ordinance they have to notify by

January 31 of the following year should there be a pro-rata for the months of the first year because they could register on December 1 and then comes January 31 they are getting hit with another \$1,000. Mayor Mignone stated he thought the fees need to be lower because the intent isn't to get fees, the intent here is to give the borough authority for our Code Enforcer to have someone to contact and to remedy these problems that is the purpose of the ordinance. It could be someone is selling the house and it could be vacant but they are not mowing the lawn or not shoveling the sidewalk and right now this would give Mr. DeRosa the authority to summons the proper people and get them to remedy the situation. It is more geared towards getting compliance then it is about registering and things like that, it is much simpler than that, at least as far as he sees it. Mr. Sarlo said that if a violation is issued, he kept it very broad range, and being a prosecutor and didn't like being pigeon-holed into a dollar amount so he put in a range of \$100 of a very minor offense, and the court has up to \$2,000 for each offense and every offense that would occur every day if it's the same offense if it occurred every day. If the judges finds it to be a very serious offense he could go up to \$2,000 a day in fines but he could also go anyway within the range, again that range could be changed. As a prosecutor he always liked a range, you are able to negotiate, some offenses are less serious. Mayor Mignone said that we also have the authority under this for the borough to effectuate the repairs, correct. Mr. Sarlo said we do under Section 12, however that only applies to abandoned properties not as to the vacant properties that again goes by Statute when a property is being abandoned there are New Jersey Statutes that allow you to do the work and put a lien on it. He didn't see anything as to the vacant and he didn't know if the Mayor wanted him to put something on that as to the vacant to perform the work. Mayor Mignone said to him only if there is an issue of life safety issue or health and again this comes with problems with a house where a sidewalk didn't get shoveled along Kinderkamack. You can notify them all you want it still not going to get shoveled with two feet of snow and people can't get by. In a case like that we should have the authority to say we are going to clear it and we are going to bill you, at least maybe for something that effects for the right-of-way. That is the only case the he thinks needs to have some proactive ability to act. Mr. Sarlo said he would go back and look at the Statue and see if it just says abandoned change it or if it's pretty broad and it says you have the right to do the work and doesn't make that distinction then he would be fine with Section 12 Repair by Borough and it would apply to either/or. Mr. Sarlo stated he would double check on that, but looking at it now he thinks actually he doesn't make that distinction that you have ability to correct a violation. Councilwoman Busted made reference to a commercial property and the time period in which progress needs to see done in the construction and she was wondering if during that timeframe you put in there is State Statute or is that something we can discuss, right now she thinks it says six months. Mr. Sarlo said it can be discussed, there is a model ordinance that is recommended by the League of Municipalities and a lot of this was based on that, but there are a lot of tweaks to and what was incorporated was what the Mayor indicated about the construction being half done and placing a lien on it, but he can look but he believes we can change that, if he doesn't site to a Statue then it's subject to your interpretations. Councilwoman Busted thought they should consider reducing the amount of time. Mr. Sarlo made reference to Section 2, b, Construction was initiated on the property, now again when he was talking about abandoned property that came right from the Statute so he is going to say Councilwoman he will double check but he believes that is a State Statute because he talks about the criteria being set forth in the Statute, so you would not be able to. Councilwoman Busted asked if it was under the vacant to. Mayor Mignone said that the questions can not applicable to vacant by the same definition. Mr. Sarlo said that he does address it in his definition of vacant property, it says any and all lawful construction

operations have ceased for a period of at least three months. Councilwoman Busted stated she recalls it saying six months, Mr. Sarlo corrected her by saying that was for the abandoned property. Councilwoman Busted said she would like to make that the smallest window as possible so we can see some of these commercial properties come to their fruition. Mayor Mignone said his question would be that we have to be a little mindful about this is meant to address, it's meant to address more about health, safety, and having a viable structure. He doesn't know if someone has financial difficulties and they are allowed by law not to prosecute their improvements that we have jurisdiction to fine them or compile them to finish. To him if a house is half siding and half framed or whatever, that's one thing, but if someone has a shell and the house isn't being cleared on the inside he doesn't know if that is something this ordinance was intended to address. Councilman Papaleo agreed with that being something this wasn't the original intent but it may not be a bad idea, we have at least one commercial property that is prophetically unfinished and the residents have complained. Maybe we need to address a little bit of that. In addition to that, Mr. Sarlo, he knows that with the vacant issue we have at least one residence's house that the residents are gone for six-seven months, it's more of an investment property for them and then the grass gets over grown and when the grass gets over grown and then there are rodent issues and other things, so would this ordinance, which he hasn't had a chance to read since it only came out on Friday, but would the language currently in allow our Code Enforcement to address those properties that are not for sale, not under construction, but the resident is simply absent. Mayor Mignone replied that is the intent, yes. Councilman Papaleo said his next question would be how do we determine the moment of when the property is vacated because we can only act after it is vacated for a certain period of time, how would we determine it has been vacated for that period of time. Mr. Sarlo said he was anticipating that, and there is some criteria that your Code Enforcement Officer can make a reasonable determination as to when it was vacated, he is able to back three months based on the length of the grass, buildup of newspaper, and other requirements. Councilman Papaleo asked do we think three months is too long. Councilwoman Davis said that she just closed on a property today that took eight months, the one on Seventh Ave., which was a HUD property. Councilman Papaleo said he understood that could happen, but he doesn't know if residents have to endure an adjunct property for that long. Mayor Mignone said he thinks it's how it comes to the notice of the borough, if it's something the neighbors notice and it looks like something is going on and they notify the borough then the clock starts, but if it's one of those cases where after the grass is a foot high and no one called and he goes out and tried to justify the three months that is when we may have a problem. Councilman Papaleo said that is why he is wondering if three months is too long of a time. Mr. Sarlo said we can include some type of paragraph in there or definition as to evidence of vacancy and something as to reasonably personally been vacate for a whatever months you want to put in and then there are accumulation of trash, absence of window coverings, high grass, there is a whole thing in here that pretty much allows that, because you are right how do we go back and make that determination. Mayor Mignone said if there is a violation a notice goes out anyway, it's just whether we get the authority to go and rectify it that is what this for. Mr. Sarlo agreed and said no question about it, it gives you the authority. Councilman Papaleo asked if they would get another version of it, Mr. Sarlo said he thought he needed to be given somethings regarding fees you want in there. Councilman Papaleo said that if there isn't a consequence that would be uncomfortable and he believes our municipal judge is reasonable so the range of \$200 to \$2,000 is a fine range because that leaves it to the discretion of the judge in addition he knows that these matters never get immediately to the judge and Art DeRosa makes very reasonably attempt to speak to the individual and so by the time it gets to a judge it's

really (simultaneous talking) Mayor Mignone said that Councilman Papaleo was speaking to violations and he was talking actually registration fees, which all other council members stated fees starting at \$500 to \$1,000 and were very high. Mayor Mignone said the judge could have expression, the initial registration fee was set at \$500 and if not paid within six months it goes to \$1,000, these things need to be settled in that time and then we are going to be trying to get money anyway so to him it not a matter of getting higher registration fees, maybe it's a \$50 fee and they get to renew it. These are all transient types of situations. Councilman Papaleo felt that reasonable. Mr. Sarlo said your fee should be, Mayor Mignone said something nominal to cover the administrative cost of maintaining the paperwork. Mr. Sarlo asked for just the one time registration fee of \$50, Mayor Mignone said he didn't think we were looking at things that were going to vacate for a number of years, then there are different issues if that were the case. Speaking about Council's other point we talked about construction not be prosecuted, most of those commercial developments are governed by developers agreements, so we have to look to the conditions of what those are and whether this is in conflict with that. Councilman Papaleo said he would like that to be looked into. Mayor Mignone said you can't force someone, we have projects all the time, the property across from Total Wine that is approved for a bank pad by a developer's agreement. They were supposed to have construction within such and such a date, they didn't do anything with and we have an empty lot that they use for parking. Yes they probably need the parking, but the borough loses a ratable that was supposed to be built at the condition with the approval they got. Councilman Papaleo said we have that, we have the property on Kinderkamack that they never built townhouses on, we have the property further on Kinderkamack where it was supposed to open as a delicatessen and it's never done that. So if we can tighten up those laws so we can have our commercial and residents be accountable to the rest of the town in a fair and reasonable manner, to which the Mayor agreed, but he wanted to draw a distinction about making something that is going to be astatic but is astatic but you don't want it to be an eyesore that is not completely constructed that's different then compelling someone who has to outfit a building and open a business. As long as outside is clean safe and of all of the site work is done, Mr. Sarlo said you can't compel somebody to (inaudible) if it's in compliances with the code and there is no violation, Mayor Mignone said if you have a site which is perpetually under construction, the site work isn't done and its muddy looking, that is what you want to avoid, but generally it is very lenient in giving in terms of particularly past 8 or 9 years past extensions on the building permits under the Extension Act, so our hands are also tied to some degree that way in trying to accelerate the progress. Councilwoman Davis mentioned that property with the condos, that when they go to Zoning don't they get approve for a period of time, Mayor Mignone said that was site plan approval, there was like a variance that could expire quicker, site plan approvals can also expire but they would have to come back but the Extension Act allows them to perpetually ask for one year extensions for several years. At the end of the day they don't have to build on that property, we can't compel them to develop it. That happened with the old Hoffman-Koos, you can't prohibit someone from demolishing (simultaneous talking) vacant that's your right, you can knock down your house tomorrow and leave your lot vacant and the borough can't do anything about it. Mayor Mignone asked Mr. Sarlo if he had enough direction, and Mr. Sarlo replied yes and he was going to put in there a clause to look at regarding an evidence of vacancy that your property Code Enforcement Officer and what he is hearing is a fee, no renewals just a one-time registration fee, Councilman Papaleo stopped Mr. Sarlo and said Councilman Bartelloni is making a good point. Councilman Bartelloni stated he would keep it at the \$500 and \$1,000, he thinks a lot of times we are dealing with administrative costs and follow ups and additional problems in getting mortgage companies in getting them to do

what they are supposed to do, especially with you are dealing with foreclosures. Plus you want to have some incentive, I know people who have lived next to homes that have been empty for a long time and there is a physiological impact on the value of their home, as well as just the fact that they are living next to house that is vacated and abandoned. He thinks you want to have some incentive to people and banks to move along. Mayor Mignone said that is a distinction between those two things, he thinks that if someone has a three month window where they are closing and you are going to make them register for this because they are going to be moving out of the house leaving it vacant because they are going to have it close in three months then you are making them pay that \$500 also. Councilman Papaleo said then maybe we need to have language that says maybe there's a presumption, Mayor Mignone added unless it's an abandonment versus temporary... Councilman Bartelloni said unless its actively for sale but sometimes you have properties that aren't for sale and they are just sitting there vacant. (simultaneous talking) Councilman Bartelloni said that is different from somebody who decides they have had enough of this winter and goes to Florida. Councilwoman Davis commented that you can't have people \$500 every year because they go to Florida for six months, to which Mayor Mignone and Councilman Bartelloni agreed. Mr. Sarlo said he didn't think that was the intent of this. The council agreed Mr. Sarlo would need to draft the ordinance with language to differentiate between someone who is seasonal and property that has been abandoned due to foreclosure. Mr. Sarlo stated abandonment is set by Statute, and talks about if they haven't paid property taxes it seems to be abandoned. Mayor Mignone said he doesn't want to make it complicated but would it make more sense to take it and put it under our property maintenance ordinance and just keep as abandoned property. Mr. Sarlo asked if he just wanted to just do an abandoned property, Mayor Mignone said and keep that clean and take the issues with regard to vacancy and put that under our existing property maintenance, amending the old ordinance to include this language and just keep this one clean and simple. Mr. Sarlo said just do a separate article on abandoned property, Mayor Mignone replied separate ordinance on abandoned properties but then under our property maintenance ordinance adding another article dealing with vacancies. Councilman Bartelloni agreed with that and said and then the ordinance drafted, you do have keep referring back and forth which you are talking about abandoned and vacate and it can be... Mr. Sarlo said you may want to (inaudible) the ordinance may be sufficient. Mayor Mignone said he didn't think it had that much, but you may (simultaneous talking) Mr. Sarlo said two ordinance, one for vacant adding a whole new article to it and amending the existing the property maintenance. Mayor Mignone said Mr. Sarlo could put it as article under, Mr. Sarlo said you can do no fees then when you put vacant ordinance because you aren't worried about seasonal people (inaudible) selling the house. Your fees are more for the abandonment and foreclosures, where you can liens on the property and collect once the property is sold.

2. **2016 Best Practices Inventory** – Mr. Negreann explained that the State has a required program where we must answer 30 Best Practices questions. If you achieve a score of 22 there is no penalty against our State Aid, he is pleased to report that presently we have 23 “Yes” answers, no “No” answers, and 6 “Not Applicable” answers, which gives us credit as well. There is an additional policy on tonight, Resolution #16-359, which will give you 24 “Yes” answers and 6 “Not Applicable” answers. It doesn't look like we will lose any State Aid because of this program. We are required to have it listed tonight for discussion, if you have any questions on any of the Best Practices he will be happy to try and answer those for you and then the Borough staff will be able to send this checklist in by the deadline. Mr. Negreann asked the Mayor and Council if there any questions, and said he would try and answer them. Mayor Mignone said that he read something about

language where they were going to make “non-applicable” count as no’s, they were considering something like that. Mr. Negreann stated that as far as he knew the “not-applicable” would be, Mayor Mignone said going forward, Mr. Negreann said going forward that maybe, yes. Mayor Mignone said and they are also going to hit more of the aid he thought. Mr. Negreann agree and continue by saying the program use to only attack the last 5% of the consolidated municipal property tax relief act money, now it will also include your energy receipts stacks as well. Also it is up the Director of the Division as to how much he will take back so there was a limit before, but now if you don’t achieve the 22 yes answers then you are subject to losing a sufficient amount of your aid. Mayor Mignone wanted to the public know that was about \$1,000,000 we get, and Mr. Negreann agreed with that amount. Mr. Negreann thanked the Mayor and Council.

3. **KBG Lighting Project** – Mayor Mignone called Bobbi Conway and Alicia Armental up. Mayor Mignone said this was to review the final cost proposal from Musco. Ms. Conway said that was correct and that it was received today and it was a revised scope of work and total. Mr. Negreann wanted to add the proposal was for \$416, 225.00 but we will get a discount of \$11,355.00 for the sales tax for that we will provide, so that brings our cost down to \$404,870.00. We are left with a question as to the restoration of the site, Musco will do for \$15,000.00, which will bring the total cost to \$419,870.00. Or you can decide to have our DPW do or contract it out at a later point in time. As he sees it the decision tonight is whether you want to have Musco do the restoration or not. If you don’t want them to do it we can handle that later on in terms of how it will be done and by who it will be done. We have three resolutions in front of you tonight, 1 you do not have to Musco do the restoration and you can make your award tonight, funds are available for the \$404,870.00. If you want to include the restoration with Musco for the \$419,870.00 there are two resolutions, one of which would move some money reallocate some from Recreation 2015 maintenance line to this to cover the \$15,000.00 and then a second resolution to make the award at the \$419,870.00. So the staff is prepared to make an award tonight should you chose to so the only decision you need to make at this time is whether the restoration be done either by Musco or by some other means. Mayor Mignone said he thinks that \$15,000.00 is excessive for site restoration particularly if its raking and seeding, that is one of those things where he thinks it was lump sum where if we asked for a credit they would give us a \$1,000.00 but now they want us to pay for it separate they are charging us \$15,000.00. Councilwoman Murphy asked if we knew what the DPW approximate would be and how quickly they could do it. Mr. Negreann said he didn’t have that information and it hasn’t been discussed. Mayor Mignone said it is less crucial because this all outside the playing area and talking about restoring and seeding behind the fence line he doesn’t think \$15,000.00 should be spent for that. Even if it doesn’t get done, he would rather see John Lynch put mulch down. Councilman Papaleo agree with the Mayor, we shouldn’t pay \$15,000.00. Mayor Mignone wanted to reiterate that he had asked Mr. Miller some technical questions or if he was fully in support of the design concept he agrees with the cost estimate we received, the option that we would be voting on tonight is the in fact the best in terms of technical and fiscal conditions we can expect for this project. Ms. Conway said she believed he did answer those questions for the Mayor. Councilman Acquafredda wanted to specify what state would Musco leave the surface, Mayor Mignone said they are just going to excavate around the footings and it’s got be level and back filling they have to do, that is not restoration as far as he is concerned. Councilman Acquafredda referred to the top layer and said they are not going to leave it, they are going to have to leave it in such as state that we just move in and finish it right. Ms. Conway address Councilman Acquafredda by saying under the Musco Subcontractor Responsibilities #14 contractor responsible to

fill and compact locations where trenches and foundations are installed or demolished, so they are going to fill that with what they take out. It will be the responsibility just to rake, put in possibly some top soil and seed. That maybe done later once everything is settled. Mayor Mignone said even if they have to back fill it, fill around (simultaneous talking) Assuming Mr. Miller or someone is out there overseeing the work on behalf of the borough anyway. Councilwoman Murphy said she was inclined to go with the DPW not the \$15,000.00. Councilwoman Busted made a motion was made to accept the resolution to appropriate \$404,870.00 and also the separate resolution which allows for the \$15,000.00, not to exceed \$15,000.00 for restoration to go outside for quotes, isn't that the other one. Mayor Mignone said if necessary, it could also be discussed at another time. Councilwoman Busted wanted to make that motion and also wanted to state that as liaison to Recreation she wanted to thank the commissioner and Bobbi for their hard work to make this project, which has been a long labor of love, to get us to this point, thank you. This motion was to put this resolution on.

Motion by Councilwoman Busted, second by Councilman Papaleo to approve.
All in favor 6-0

Mr. Negreann wanted to add that this was not listed for the agenda, so when we get to the agenda it will have to be requested by the council to amend the agenda to include this resolution and the Borough Clerk will assign it a number at that time. Mayor Mignone asked that motion to include amending the agenda at the 8^o clock meeting. Councilwoman Busted said she would add to amend the agenda at the public session. Councilman Papaleo 2nd the motion again. All in favor 6-0

4. **Date Change for November Mayor & Council Meeting** – Mayor Mignone announced that he will not be able to attend the meeting on the 14th and he was going to recommend that we hold our regular meeting on the 7th at 7PM, no Work Session. Mr. Negreann stated that in the past we moved the Regular Meeting up to 6 maybe 6:30 starting time since the Borough Clerk has to get up every early for the elections. Mayor Mignone said that if that works for everybody we can do it earlier, at 6^o clock.

Councilwoman Murphy wanted to mention that tonight was Rosh Hashanah and that in looking ahead we could keep the Jewish holidays in mind. Mayor Mignone said going into next year we have more Tuesday meetings than Monday meetings because of holidays so that is something we will look into reorganization next year. Councilman Papaleo said let's just be mindful that every time we do a Tuesday meeting we are in competition with fire dept. for parking spaces. Mayor Mignone said but by default we have been having them on Tuesdays because... Councilman Papaleo said if we can't do Monday we may want to do Wednesday. Mayor Mignone replied yes that was what he meant, we won't be beholden to the Mondays and it gets bumped more often than not because of the Monday holidays particularly when we have them the first week of the month. Councilwoman is correct we need to be more mindful because it happened with River Edge Day also. We will make sure we are more mindful going into next year.

It was agreed there would be only one meeting in November on the 7th at 6pm, no Work Session, and we will have the Regular Meeting the first Monday in December. Mayor Mignone said if something obviously arises we can always schedule a meeting later in November. We have Thanksgiving and the League, we seemed to have muddled through June, July and August just fine. A motion was made to hold just one Regular Meeting on November 7th starting at 6PM for November.

Motion by Councilwoman Busted, second Councilman Papaleo to approve.

All in favor 6-0

5. **Shade Tree Commission** – Councilman Papaleo explained that he requested this to be placed on the agenda to discuss a specific issue, he asked Mr. Sarlo to speak to the Mayor and Council about whether or not the Shade Tree Commission has the authority to say no to a Borough improvement. Currently we are looking to put a sign at 140 Kinderkamack and Shade Tree was approached about the sign many months ago and they said they would move the tree the sign was blocked by and now they have changed their mind and they are now saying they want the Borough to pay for it but there is also the option to cut the tree down or moving the tree which is expensive. He wanted Mr. Sarlo's opinion on whether we could direct DPW to either, what is our authority when we are making when we are making improvements on borough property and there are trees that need to be, can we cut it down, can we move it, or we not permitted to do because Shade Tree supersedes us when it comes to borough improvements. Mr. Sarlo said that the answer is if it's a borough project on borough on property you have every right to excavate, remove any trees you need to complete that project, you do not need Shade Tree approval. Shade Tree cannot hold up a borough project, cannot hold up building a civic center because there is a cherry tree on the property. You have every right to remove. As to cost, if you are removing it, you are going to pay for it. Councilman Papaleo said we have the right to move the tree and replant it or cut it down. Mayor Mignone said he didn't think this was any different than the case of the tennis courts and it was his understanding that whatever was agreed to previously was related to him through John Lynch was that Shade Tree said yes take the tree down or move it but it's not coming out of their budget, that was the way it was told to him. John stated he didn't have the money in his budget either, and Mayor Mignone told him we would worry about it when the time comes, but as far as the authority goes Mr. Sarlo is correct we have the authority to say. Councilman Papaleo said we have encumbered the money for a \$7,000.00 sign and he thinks that the question then becomes what would be the most cost efficient way to put up that sign and he thinks removing the tree, cutting the tree down, and so as liaison he would like to continue to have this discussion with John and find out what it would cost to remove the tree and come back to the council or unless it's a reasonable price and it can be fit into the budget then we can move forward now. Mr. Sarlo said if it is a big cost in removing and replanting the tree then why not have Mayor and Council agree to plant a new tree in its place somewhere, wouldn't that be a lot more cost elective, replacing one with another instead of actually physically moving it. Councilman Papaleo said he didn't think it was in the budget to move it, he was talking about cutting it down. Mr. Sarlo said if you are concerned about cutting down a tree in lieu you can plant a new tree somewhere. Councilwoman Murphy suggested taking a tree from the tree farm. Mayor Mignone said that we didn't want to put up a \$7,000.00 sign that you couldn't see. Councilman Papaleo asked if Mr. Negreann could direct John Lynch to move forward with this. Mayor Mignone said he thought John Lynch had that discretion whether he can do it in house himself or if he has to contract the he has to get his quotes and then find the money in the budget. Councilman Papaleo asked Mr. Negreann to inform John Lynch about this discussion and that we want him to move forward and if it seems exurbanite to let us know. A motion was made to move forward seek quotes and report back to council.

Motion by Councilman Papaleo, second by Councilman Acquafredda to approve.

All in favor 6-0

Mayor Mignone mentioned that there are still a lot of loose ends that he thinks that need to be discussed and need to move forward with the assistance of Mr. Sarlo, these have been mentioned several months ago and he understands the challenges being presented by

them being a commission. They are atomism, they can create their own ordinances and as Mr. Sarlo says even if there were things we wanted them to do we don't have the authority to make them do it. To him there are some residential features he would like to see them incorporate, he doesn't know how they have been in responding to phone calls, but he still has gotten complaints that they haven't gotten call backs. He would like to see the website clearer with FAQ's. Last time he checked tree remover permit link was dead, so if people go and look for the information they can't get it. As he mentioned before he the commission needs to give some clear precise rules with regards to trees and construction when there is conflicts when someone wants to expand their driveway and a tree that needs to be discussed when at the time of a Zoning Board hearing, you can't have a Zoning Board hearing grant an approval to an assumed removal of a tree then have the Shade Tree Commission take 5 months to give their approval for the tree to come down and then decide they don't want it to come down but then it can be ok to take it down at the owner's expense. There has to be some sort of clear cut rule, there has to be some time frame for which they operate. He thinks there needs to be some tightening on the tree protection ordinance, and he has talked to some contractors in town who have tens of thousands of dollars in bonds still being held and he doesn't think we have firm criteria as to what pre-tree protection requirements we would require at the start of construction that would give a contractor some level of comfort that if he does these things that he is minimizing or eliminating his chances for damage to a tree. We have had several times where two days later, it could have been very well because of construction, but there is no paper trail at the beginning saying you didn't prepare the tree properly or protect the tree properly it is every hard for at least him to say the contractor shouldn't get the money back. To him those are simple rules and things that can be put in place and if it means they need to adopt an ordinance or policy or what have you that would be left to Mr. Sarlo, and the other he keeps referring back to is that whether it's through a tree trimming permit or something to that effect, if a resident feels that there is a borough tree that's extending over private property which they feel is unsafe they should have a path to have that limb cut, even if it is at their own expense. There should be at least a permit procedure or a new procedure, obviously we don't want people cutting down tree limbs and unbalancing trees or whatever, but there could be a protocol in place that they have to have a qualified tree personnel assess the situation with the input of the commission, he isn't looking to bypass them, but we all know that if your neighbor's tree is hanging over your garage you have the right to cut it, we are telling residents in this town if a borough tree is sticking over your driveway you don't have the right to cut it and you have to live with it. I can tell you its safe and I believe they are all obviously qualified and very well trained, but sometimes a resident just wants to be proactive and he doesn't think it's something we shouldn't let them at least have the ability to pursue and some right of appeal to the council in some cases. Those are the general, to him, we had some of these in place he thinks the interaction with the public and the commission would be much more smooth, much more amicable, and he thinks everyone's objectives can still be met. Councilwoman Murphy said she would bring this up to them. Mr. Sarlo said these were all valid concerns but again being an autonomous board a lot of these things fall within not your jurisdiction to do anything. Councilwoman Murphy said these are good recommendations. Mayor Mignone suggested that Mr. Sarlo attend Shade Tree's next meeting, and he wanted to stress these were straight forward recommendations that he thought will make things a lot clearer and help them achieve them their mission and also give the residents some sort of level of authority because right now they feel that they don't have any say in these matters, believe him he has heard it, "You are the Mayor and you can't do anything", and his reply is "no, and the council can't either, and we have multiple commissions with these

hours, not just Shade Tree"; and he thinks these issues can be address. Mr. Sarlo agreed he would attend the next Shade Tree meeting.

MAYOR'S REPORT

FOR YOUR INFORMATION

UNFINISHED BUSINESS

Grove Street
Borough of River Edge Senior/Community Center
Shade Tree Commission
Sidewalk and Curb Responsibility

NEW BUSINESS

Councilwoman Busted stated that she received a complaint from a resident about lighting on the platform on River Edge Road Train Station. She asked if we could either contact NJTransit if it has to do with their actual facility or if its borough lighting that could be looked at.

Councilman Bartelloni also mentioned that Chief Cariddi reached out to him with questions regarding the feed-back signs, he was trying to get some price quotes and he wanted to see what features were wanted to base the quotes on, for either Mayor Mignone or Councilwoman Busted to contact him.

Councilwoman Murphy said that she had a few people contact her regarding painting a blue line honoring the police on Kinderkamack and Continental. Mayor Mignone replied that he had reached out the county since those are not our streets and he hasn't gotten any feedback yet as to where we are allowed to do it or not, or if the county has a policy on doing that on a county road. He has directly contacted the County Road Supervisor and Director of Operations and they haven't responded officially to him yet, so before we do anything he wants to make sure that we are ok with the county, that doesn't preclude us from doing it on the limited stripping that we do have on Continental or Howland. Councilman Papaleo asked about Main, and Mayor Mignone said that wasn't our's, it was county's. Mayor Mignone said most of the major streets are county's, but we could certainly do it on local streets if that was what council wanted. Obviously Midland and Kinderkamack are our biggest, and he thinks the county is going to have to come up with a policy because he has seen other towns where they are suggesting where he knows they are county roads so whether they actually went as far as asking the county for permission he doesn't know. Councilwoman Murphy said the other towns did ask the county and they were given permission, she has a letter. Mayor Mignone said that Mr. Costanza or Mr. Connolly hasn't gotten back to him yet but we can certainly all on the same page.

Councilman Papaleo said that in November we are not going to have a Work Session and if we get a letter back from county saying this is permitted we would still be able to act. Mayor Mignone said we still have another meeting in October and he thinks we will be able to do by the next meeting. Mr. Sarlo said that if there is something pending and if you want to act on it again you can always conduct a telephone poll saying we received it we'll ratify it at the next meeting council meeting by a poll saying yes you approved of doing it and you'll approve doing it right away and ratify it with a resolution at the next meeting.

MOTION TO OPEN TO THE PUBLIC

Motion by Councilwoman Murphy, second by Councilman Bartelloni to open.

All in favor 6-0

Kevin Connors, 259 Adams Ave. – His first comment was regarding the price of the sign. Councilwoman Murphy explained that the life expectancy of the sign was 20-30 years. Mayor Mignone also explained that this money was appropriated about three years ago in the budget and the council voted on it. His next question was regarding the KBG restoration. Mayor Mignone said when they replace the light poles and put the new foundations in they are going to disturb a certain ratios around the area, so they are talking about restoring that area, and their price of \$15,000 is not worth it, it is an unusual situation in that we are doing this through a cooperative and the installation costs are built in through the cooperative so it's not like we could really have much room to negotiate with the actual installation cost. We could bid it separately, I thought of that at one point, he doesn't think the cost, we would have had to develop a whole new set of plans and specifications and site work go through the public bidding process and all that and he didn't think at the end of the day we would have gotten substantial savings to justify that then what we are paying through the coop. with the exception of this \$15,000 item which he doesn't think is worth it. Connor asked why the lights needed to be replaced. Mayor Mignone explained that the lights were antiquated and more importantly we don't have safe lighting levels on the field level, the lights are 30+ years old. It is also a safety concern and he thinks the council was prudent in trying to trying to not spend all this money all this money at not money one time, money has been put away over several years. We ran into a glitch at the end because of this issue with the foundations but even that he thinks, he will take some credit for value engineering it, the cost was pushed down where it was close to the original budget was. At point we were looking at it to be a \$600,000 project and tonight we approved it for \$400,000. These are 75 ft. high poles, they are not ground lights, and you need to get even distribution. It is incumbent with doing their lighting analysis and showing they have proper candle distribution. There was also the issue as to where we would be able to maintain the integrity of the existing foundations and if you start trying to remove the heads of the lights and you start putting pressure on it and you induce some moments on the poles yes you can displace and yes it not a question of the existing lights, they are not adequate and they can not be retrofitted and there is also an incidental long term cost savings for the lighting because they are more efficient, that is a component, it is in the power consumption, the bulbs, and the replacements because they are longer lasting compared to what we pay annually now to replace the bulbs. Solar power wouldn't be able to provide that type of power, remember a 3x5 solar panel give you a 190 watts of power, if you look at the PSE&G poles, think of your 100 watt bulbs that is what it powers, solar is not as efficient as people may think it is. Councilman Papaleo suggested this may be something that should be discussed after the meeting, but Mayor Mignone felt this was a ligament question as to how the council came to their conclusion and he was comfortable with their conclusion moved on and any other technical questions the information can be forwarded to Mr. Connors. Mr. Connors asked if this was a replacement sign. Mayor Mignone replied it was a new sign at 140 Kinderkamack, that corner is really being cleaned up and it is going to be something that is going to be a positive entrance into the town compared to what was there and he thinks that is the gateway to River Edge now it's not a bad thing to have now. Mr. Connors asked if the ordinance that was discussed tonight was a big problem in town. Mayor Mignone said he didn't know if he would characterize it as large but it has happened at least a half a dozen times since he has been on the council and the have become protracted problems which require a lot of resources and council time and effort on the police and the building dept. and the code enforcer and he thinks if we had these tools behind us then we would get resolution to these situations much more quickly. Also Mayor Mignone addressed the emails saying several of them have been addressed, there was a glitch with the council meeting going up on YouTube and that has resolved, you asked about 5th Ave., it's not a bike lane it's a shared lane, it's a sharrow, there wasn't enough physical room for a bike lane and his personal opinion was that a bike lane wasn't appropriate

anyway, but a sharrow is an attempt to make people mindful that there could be bikes on the road and the sharrows are placed according to the MTCDD from the curb so bicyclists are not going to be nailed by a car door opening, they are set by parameters, and they are engineer parameters that we don't deviate from. The issue on Wayne and 5th is being looked at. The last question regarding the rating system for the roads, he thinks John Lynch uses a modified system of the inspection system that the Asphalt Institute codifies and it basically has different criteria on road condition and you wound up with a numerical score and the way John has it rated anything from 85 to 100 if rated as good, 75 to 85 is fair, 55 to 75 is poor, and less than 55 is very poor. As of now we have at least 10 or 12 streets which range in rating in 18 to 55, those get first priority. To your point the issue on Valley Road this rating system doesn't necessarily take into account you may have one small section of road that is very poor and that is something that we need to look to modify. You may have ½ a block or one block which may in itself may be very bad and by looking at a road, and yes he has looked at this specific spot and agrees it needs to be repaired but he was asked about the rating system. But if you look at the length of the road it wouldn't qualify, but if you look at that one section it would. Maybe John has to look at maybe modifying to take some of those very bad smaller sections into account so those can get repaired quicker. He spoke with John about modifying the scoring system to take into account maybe some localized areas so we will look to do so.

Robert & Ester Lorbeer, 668 Center Ave – Ms. Lorbeer said that two years ago when they put in the wheelchair access curbs their pine tree started to die right after because they cut the root system on two sides of the tree to lower the walkway. Councilwoman Murphy has stopped to see the tree. They are afraid the tree is going to fall on their neighbor's property or across the street, the tree needs to come down. Mr. Negreann felt this was done under a CDBG project. Mayor Mignone questioned whether a maintenance bond was still in place and if not then we have to decide if it's the borough responsibility at this point. Mr. Negreann said we would check on the maintenance bond. Mayor Mignone said that within a certain time frame we can go back to the contractor and he has to put a bond up and we use that money to take tree down, if he isn't around or if that's expired then it's incumbent upon us to decide if we are going to do it. Mr. Negreann will find that out and we will get back to you. Ms. Lorbeer stated that she has left several messages for Shade Tree and no one has gotten back to her. Mayor Mignone said this is an issue with construction and he doesn't know whether the borough's inspectors are out but we can't worry about that right now so let's find out which project this was associated with the time frame involved and then we will figure out how to rectify it.

MOTION TO CLOSE THE PUBLIC HEARING

Motion by Councilwoman Murphy, second by Councilwoman Busted to adjourn.

All in favor 6-0

MOTION TO ADJOURN AT 8:18 PM

Motion by Council

All in favor

Stephanie Evans, RMC
Borough Clerk