

**BOROUGH OF RIVER EDGE
MAYOR AND COUNCIL
WORK SESSION MINUTES
MONDAY, MARCH 2, 2015**

PRESENT:

Mayor	Sandy Moscaritolo
Councilwoman	Kathleen Murphy
Councilman	Anthony Coppola (entered meeting at 7:40 PM)
Councilwoman	Ellen Busted
Councilman	Edward Mignone
Councilman	Vito Acquafredda
Councilman	Thomas Papaleo

ALSO PRESENT:

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

ABSENT:

None

Mayor Moscaritolo called the meeting to order at 7:00 PM by reading the Open Public Meetings Act.

Mayor Moscaritolo asked that Mr. Richard D'Arminio present his utility audit update. He in turned introduced Mr. Ishmeal Costineo who went on to explain that they reviewed the past two or three years of the Borough's bills. In reviewing from 2012 to the middle of 2014 they were successful in getting some credits to the accounts and some reductions. There are several recommendations that have been made with PSE&G regarding traffic signals, which were determined to be too high. PSE&G wanted particulars which he provided to them for specific traffic lights and now they are requesting proof as to when the town replaced with LEDs. He is trying to avoid supplying this information since this issue goes back fifteen years when this was done. They were able to eliminate some services that didn't have any usage and was just being billed because there was just simply a meter there. They were able to get a small rate change on a street light that was billed on BBL instead of an ESAL. More recently they have been working with PSE&G on the major services of the street lights. Which are unmetered services, and there are two services billing the town. One of them the usage fixture charge, which is the charge of the use of lights in the town for different street lights, are exactly the same each month. That makes sense. However we don't know how many lights are connected to that particular service, which we are trying to found out from PSE&G. The second service which is more troubling, is that the usage fixture charge changes every month. That indicates to him that the only possibility is if the lights change every month to different types of bulbs, he doesn't think that is the case. The big situation he is looking into with PSE&G are those two street lights. He did find out that the town had 810 lights and 119 decorative poles. In one month you were charged one amount and various amounts for other months which he just doesn't understand why that's so. Councilman Mignone asked if this was for metered or unmetered, overhead lights or decorative lights on one bill. Mr. Costineo stated he didn't know because the two accounts were unmetered. They are based on a certain number of lights, and those lights are either 500 watts, 1,000 watts, or 250 watts he didn't know the nature of them. They could be a combination of street lights and or decorative lights. Councilman Mignone asked if there is one bill for all the lights. Mr.

Costineo said there are two services for all the lights. PSE&G has two unmetered services and one goes up and down, and the other is a flat \$4,599.04 each and every month. Councilwoman Murphy asked if the one fluctuates due to light outages. Mr. Costineo answered that wasn't the reason. Councilwoman Murphy asked if they needed anything from Mayor and Council to help resolve this issue. Mr. Costineo said that he already received from DPW the cost of lighting from them for the past fifteen years. He went on to say that PSE&G has a department that strictly handles rates consultants, Large Customers Support, but he isn't much luck speaking with anyone. There is another department that is strictly known as the "Outdoor Lighting Group" which he has dealt with previously for another town and was very helpful, so he was trying to go through them, but so far he hasn't had much luck. If he doesn't hear from someone soon he will just drop them. Councilwoman Murphy volunteered to go with him. Councilman Mignone asked if the traffic signals were metered or unmetered. Mr. Costineo said they were unmetered, there is one particular one that is metered in town. From that one that is metered you shouldn't be charged for 2kw, 1.6kw, which means 2,000 watts for a traffic signal. That's a lot of wattage, especially when you are using LEDs. The metered one is only 300, that's why I know there is a big difference. Councilwoman Murphy asked how much has been saved so far. Mr. Costineo said that was a credit for about \$5,000 for a mistake made for service on Webb Ave., and the rate was changed. When you are billed for the (inaudible) they get the usage and divide the usage by a 100 to determine the amount. If you use that facility for more than a hundred hours in a month, which you do, you are being overbilled. Which resulted in a saving for two months was \$600.00. Mayor Moscaritolo asked if they could request PSE&G to change the decorative bulbs to LED, and would you recommend it. Mr. Costineo said the decorative lights could be requested and yes he would recommend it. He also said that he has tried to get the normal street lights to be changed to LED and was told that PSE&G doesn't have the LEDs yet to change the corba lighting. Also because PSE&G owns and maintains the facility they are the only that can it because they don't have the change from corba to LEDs that's why it hasn't been done yet. Councilman Mignone said that PSE&G has been replacing the four with two LEDs, which is the same wattage and reduce the annual tariff by about \$4.00 a month. But you have to use the same heads, they have to be swapped out, generally they have been waiving the fee to change the heads. That is something definitely the town could do. Mayor Moscaritolo asked how to do this. Councilman Mignone said by making a request from the borough to PSE&G, and he would send Alan the contact information. The Mayor and Council thanked them for their services.

At this point Mr. Costa stepped up to address the Mayor and Council, starting with a decorative lamp that is damaged, but it goes back to a house service in the building, which means they are metered to a house. The top broke off in a storm because Verizon didn't raise the wires. Mr. Costa also stated that Police Chief Cariddi wanted to set up a meeting with PSE&G to go over all the lights. He went on to explain that the original lights were leased from PSE&G, they own they own the poles, ran the wiring, and charge a flat rate every month. Some of the other ones are metered services, such as Yeshiva and down by Total Wine, even though they aren't up and running. The cost is a lot cheaper, but if it all goes down then you have to get an outside contractor for repairs. He believes that the flat rate is about \$40.00-\$50.00 a month, \$500.00 a year per pole. Mr. Costa stated that the cheapest way would be run metered services, there are issues with charging for a metered service say for Yeshiva. The Code Enforcement Officer would have to send a letter to the property owner saying it was Borough lighting but a metered service. Councilman Mignone asked if this was of the developer's agreement and Mr. Costa said yes it was part of the planning board. Mr. Negreann said the borough was assuming responsibility for that and this week we are trying to transfer the account into our and pay the back amount of little of \$2,000 which they paid for. Mr. Costa said that Yeshiva was not able to go to PSE&G and do a lease, so in order to get them in motion quickly it was done this way. The

metered service is going to much cheaper. The amount of wattage that light is going to use is much cheaper than having a lease with PSE&G. Mr. Negreann made mention of when these lights came up we didn't have the budget to go to metered service, we had a budget to do lease service. Even though in the long run it may have been better for the town to do metered and stand the initial cost included in the budget at the time and we didn't have that opportunity. Mr. Costa believed that when PSE&G originally came out with the program, most of the municipalities lease the equipment, you could go back and change it by disconnecting whatever pole they are energizing the lights from and put in meters. Councilman Mignone stated it wasn't that simple to which Mr. Costa agreed saying that it is easier to do when under a development. With Yeshiva you put a cap on it, you have a meter that's it you're done. Total Wine is the same thing. Now you have all of the perimeter of Total Wine site on a metered service. He believed that storage place was one of the original ones and is leased. Mr. Costa suggested that taking a look at one of the site and seeing what it would cost to make it metered. Councilman Mignone felt it was important to have this discussion because we are looking to do streetscape and adding another 30-50 decorative lights, if we are going with this leasing option it's going to add another \$20,000-30,000 to our operating budget. Mr. Costa said that based on some of the analysis that was done years ago it was definitely cheaper if you have enough lights to put into the game to put in a meter box and run the wiring, it would be a regular service like you have in the building. If the light goes down then we get into how and why it went down. There was a motion to have Costa Engineering contact PSE&G to replace older bulbs with LEDs for the cobra heads and decorative lights and the cost.

Motion by Councilman Mignone, second by Councilwoman Murphy.

Mayor Moscaritolo asked if on the existing borough streetscape design are the specifications that are given out to developers do those specifications include new LED head. Mr. Costa said that if the HADCO light has changed, yes. The idea was to have uniformity, so if we have all of these lights in town, why would you change to another light, but if you are looking to replace all of them, then ok. Councilwoman Murphy suggested that going forward we should start replacing with modern stuff. Mayor Moscaritolo asked if we request to replace the LED and we don't change the specifications on the existing streetscape then when we do the streetscape...Councilman Mignone said this is new and they are just starting to roll out the LEDs. Mr. Costa said in the past year the LEDs have become extremely popular and the technology is now there.

BOROUGH ADMINISTRATOR'S TOPICS –

1. 2015 Budget – Street Resurfacing – Mayor Moscaritolo stated that everyone was given a list of proposed streets. Mr. Negreann said that Mr. Costa and John Lynch submitted a cost estimate for the listed street, \$342,360.00 which is doable in terms of the capital budget that will be introduced tonight. All of these streets as estimated can be done. Councilwoman Murphy asked if all the listed streets have been determined as the ones of highest priority. Mr. Costa said that was correct. Councilman Mignone asked about the storm drains just retrofitting the heads or more. Mr. Costa mentioned any place where there is no bicycle safe grates we would do. Mr. Negreann mentioned that the storm drain list was done by Mr. Lynch, these were the ones he has repaired before resurfacing was done. Mr. Costa said that Mr. Lynch would probably change out the heads. Councilwoman Murphy asked if these would be going through the Riverside Cooperative. Mr. Negreann said that they asked for our list and these streets are all tradition mill and pave, and no micro sealing for these streets. Councilwoman Murphy asked what the town put in, and Mr. Negreann stated \$400,000 for mill and pave and there is some additional money for other costs down the road. Councilwoman Busted

referred to the list that mentioned micro sealing recommendations, and at the last budget meeting it was talked about whether or not to allocate funds out of these to do micro sealing. Councilman Murphy asked if the balance out of the \$400,000 be able to micro seal the three streets. Mayor Moscaritolo said no there are no quantities listed. Mr. Costa said that he didn't know what the prices were to fall or not, oil was at its lowest price and now it's inching up. Maybe take the majority of the list and take out the last two streets and put them in as alternates. At least everything would be in motion and depending on what the prices come in at you can leave them in an alternates or take them out. Councilman Mignone believed that Mr. Lynch's recommendation was not to do any micro sealing this year. Councilwoman Murphy made reference to dates of when the streets were last paved. Mr. Costa said that the good news is the Council wanted a program and now there is a program to move forward and catch up on the streets. Mayor Moscaritolo asked Mr. Costa what his recommendation was on micro resurfacing, he believed that the town should continue with this project for at least one or two streets a year while developing a better handle on whether or not it's worthwhile to continue. Mr. Costa said what should be done since it's not a part of this, wait another couple of weeks for the snow to melt and see how the three roads held up and then make a decision. Councilwoman Murphy reminded Mr. Negreann he was to contact Tenafly and see how their project went. Mr. Negreann said he would follow-up. Mr. Costa felt that if the micro sealing prevailed through this winter it would last for years. Mayor Moscaritolo asked about the option of alternates. Mr. Costa said that if you want to do alternates there are ex-amount of dollars to push for that. Depending on where the numbers come in at you either award or don't award and put that money towards resurfacing. Mayor Moscaritolo asked if the list was in any type of order. Councilman Mignone believed it was in priority order. Councilwoman Murphy felt the town should proceed with all the streets, and proceed with the micro surfacing next year, if these are bad enough to be completely redone and paved we should deal with that. Mayor Moscaritolo said that the engineer thought we should take out the last two streets, both Councilwoman Murphy and Councilman Mignone disagreed with that. Mayor Moscaritolo reminded everyone that they would be bid as alternates to give us an opportunity in the budget to decide on whether or not to award all of them or not the last two and do a micro resurfacing program if the weather shows it's worthwhile. Councilman Mignone stated that if it was done this way then those streets won't get paved. We should deal with the streets that need to be milled and repaved rather than looking at delaying a street that hasn't been paved for four or five years and put the money there. We have a fixed budget, we should be fixing the streets that need to be fixed. This is the list John provided and this list is only going to continue, he already has a list for next year with another ten or twelve streets that need to be milled and paved. Since we are still trying to play catch up the money should go to the most good and fix the streets that need it and the whole budget should be applied. Mr. Negreann asked Mr. Costa about the specifications that were done for the Riverside Cooperative for many years, was it common place for towns to put in alternates, did they live to the list that was submitted. Mr. Costa said that some towns put in alternates. Mayor Moscaritolo said that because you get three for one when you do micro resurfacing if you bid this as an alternate and then later on when bids come back and decided to do a micro resurfacing program you could hypothetically leave out Lexington and Lakeview for this year but include six other streets that would be done. Councilwoman Murphy stated six other moderately bad streets...simultaneous talking. Mayor Moscaritolo said that if anyone were to take the DOT street resurfacing seminar they would know that by using this type of approach you are only falling further behind every year never catching up. Councilwoman Murphy said she understood that position but felt that a street that hasn't been paved since 1988, we need to throw whatever money

there is on the streets. Next year when we see how the road looks with the micro resurfacing, we can see if that is something we would like to use next year. Mayor Moscaritolo said that according to the engineer we will know in a couple of weeks. Councilwoman Busted said that we have a recommendation from our DPW Superintendent to hold off on micro sealing in the coming year. Councilman Mignone said we talked about it last year and Mr. Costa said that this would be a pilot program to see how it works. Councilman Papaleo said that we pretty much have a unanimous council when it comes to paving these streets. Mayor Moscaritolo reminded everyone this was just a discussion. Councilman Papaleo stated he knew but he was for paving the streets. A motion was made to proceed with paving the listed streets with no alternates.

Motion by Councilwoman Murphy, second by Councilman Papaleo

All in Favor 5-0

Abstain: Cappola

2. ADA Ramps – Kinderkamack Road – Mr. Negreann stated that the engineering fees are well beyond the County approved amount. Mr. Negreann stated that he contacted the County Engineer to revise the agreement amounts to what the actual expenses are. Mr. Costa said there were two things, he reviewed the agreement with Stacy today, and some of the time that was billed he thinks was for other Community Development ramps, which needs to be corrected tomorrow. As far as what the County reimburses according to the letter he received from Joe Femia, \$6,300 for 54 ramps. In reviewing it with Jason Alex three times line by line, it comes down to \$116.00 per ramp for finding them, measure them, design them, get them approved by Jason Alex before you can enter into a contract with Concrete Construction to the ramps to get reimburse from the County for construction costs. Mr. Costa didn't know how he came up with that number, but he was going to talk with him again tomorrow and try to resolve it with the County. Based on this there is no way he could the work for \$100 a ramp. Councilman Papaleo asked if a letter to County Executive and Freeholders should be considered. Mr. Costa said this was a program that if you want to get Kinderkamack paved, the County put out a contract to do the ramps, so it's their contract, yet somehow the emphasis is on the town for us to design them get them approved by the County ultimately get them issued by purchase order, bond by the money to do the work, hire the contractor they hired, manage the contract, ultimately sign off that it's in perfectly and if in the event there is a lawsuit in the future either the town or he is on the hook. But yet we never put the contract out in the first place. Mr. Negreann mentioned that this was a County wide program, for seventy town to take advantage of. Mr. Costa said that if you have the 2014 numbers, which he reviewed every closely with Jason Alex, the estimates are off to construct it, is that going to be the next issue, saying ok these ramps cost roughly \$2,500 a ramp... Councilwoman Murphy said just to pour the concrete and get the little rubber mat on top is \$2,500. Mr. Costa said that by the time you the grade and the curb in front and back in order to make the grades work, so now you have two sets of curbs. Councilwoman Murphy said that was like a four foot area. Mr. Costa said no, you have to chase depending on the road you have to chase the grade for a minimum of fifteen feet, so by the time you are said and done they are about \$2,000 - \$2,500 each. Councilman Mignone agree with the figure. That construction estimate is not in those numbers, he didn't know if that would be the next issue. Now you give Concrete Construction because they are the low bid, they go to work and give the bill back to the Borough, you try and get reimburse from the County and now they say it's over their estimate, the town is on the hook. A discussion took place as to whether a letter or a resolution from every town should be send on this issue. Mr. Costa felt if Kinderkamack was to be done then it

needed to be concentrated on. Councilwoman Murphy said she didn't want a balloon cost. Councilman Mignone felt that the town would then be stuck. Mr. Costa said that technically if you read the statute for the State, the County is only responsible for between the curbs, they are not responsible for the curb or the sidewalk. Councilman Papaleo said that this was a huge expense for River Edge to have for something the County is requiring and we don't really need. He remembered doing the ramps previously and now they need to be redone because the County wasn't happy with them. Councilman Mignone agreed with that statement. Mr. Costa said that the County went out for grants and got grant money from NJDOT and they said they would give the money however the ramps are not up to today's code, so now you need a program to get the money from us to resurface the roadway to bring the ramps up to today's code. That's the problem. So instead of the County saying ok this is our road, our problem, they basically pushed it off onto every municipality. Councilman Mignone asked where Mr. Costa stood with the design right now. Mr. Costa they were all done and were approved. Mr. Negreann stated that a contract was issued at the last meeting to Concrete Construction. Mr. Costa said they had a purchase order and a contract. Councilwoman Murphy asked if the design differed that greatly from that is already there. Mr. Costa said in some of the places yes it was different. Mayor Moscaritolo said there were places where they are no handicapped ramps. Councilman Mignone asked what the consequences would be in terms of drainage and other impacts. Mr. Costa said he was correct. Mr. Negreann asked Mr. Costa on the CDBG ramps when would he be available to bring that specification to the Mayor and Council for approval so we could get out to bid on that cause there...Mr. Costa said by the 27th of this month. Mr. Negreann asked if he could be scheduled for the April 6th meeting. Mr. Costa agreed with that date, and the project included sixteen ramps and he wanted to sit down with Community Development to make sure...Mr. Negreann said they wanted to review the specifications for an environmental review which we have to go through their process before we can go for bid. Councilman Papaleo stated he was still confused about the status of the County and the ramps. Mr. Costa said he was going to contact Joseph Femia at County to discuss the issue. Mr. Negreann stated that we have a signed contract with Concrete Construction, and we asked the County to modify the contract by increasing their rate of reimbursement for engineering and construction costs because the field conditions were different from their design work. Mr. Costa stated that there was no walk through with Concrete Construction, the p/o was just issued and it is an open ended p/o which is based on this design. Councilman Mignone disagreed and stated that only some much money was appropriated. Mr. Costa stated that 54 ramps needed to be constructed with today's standards and that is the agreement you have with County. Councilman Mignone stated that if it cost \$1,000,000, we have not appropriated that amount. Mr. Costa suggested sitting down with the County and make sure the reimbursement is going to equal what is going to happen out in the field. Councilman Papaleo asked if it doesn't can we put the brakes on it. Mr. Costa said that when we stop. Simultaneous talking. Mr. Negreann stated that the approval should be based on what the County and Costa believe the cost will be to the borough. Mr. Costa replied not with him as he explained the cost that they issued to Concrete Construction came from County, and whoever their consultant was, and based on those values he was telling this Council you were not going to be able to do it for what the estimate came in at for Concrete Construction. Councilman Mignone said that whatever the cost is we need to set the limits and tell them this part of Kinderkamack will be paved this year. Mr. Costa stated that the County was well aware of this issue not matching up. The ramps cannot be done for \$1,000 to \$1,200 each, it's not happening. The square footage numbers the County has doesn't add up. Councilwoman Murphy asked if 30 ramps could be done instead. Mr. Costa answered by saying that all 54 would

have to be done in order to get the road paved. Simultaneous talking. Mr. Costa said the idea was to pave the road from Hackensack to Oradell. Councilman Mignone stated if the borough couldn't afford, it couldn't be afforded. Mr. Costa said that the borough shouldn't have to afford anything. We just want to make sure that the reimbursement is the proper amount and not subsidized. Councilwoman Murphy want to confirm that the next thing was for Mr. Costa to contact the County, Mr. Costa stated that Mr. Negreann already put out a letter to Joe Femia, and he would follow tomorrow morning to get schedule a meeting. Mr. Costa also suggested that Mr. Sarlo also attend the meeting. Mr. Sarlo stated that he already met with County regarding his town and most of the paving money was going to northern Bergen County where there are no ramps or sidewalks, even if no sidewalk exists. Mr. Costa said he would send out a memo tomorrow and he will keep everyone updated and come back on the 6th of April.

3. Stormwater Training – Status Report from Mayor and Council – was not discussed

DISCUSSION ITEMS

1. 24 Hour Ordinance – Mr. Sarlo stated that he reviewed the Borough's ordinance regulating the 24 hour operations for business establishments, which he provided everyone with a copy of along with case law, and history. The current ordinance the way he interrupted it anyone can operate a business 24 hours a day if they meet the criteria, which isn't a lot. All that is required is to install a security camera. Ms. Bogart issued a memo and it appears that they are going to the Planning Board back to 2014 and looking at some other things, so whatever you decide to do here regarding the operating hours you will having to work in conjunction with the buffering and anything else she was looking to do. His recommendations to the Mayor and Council is you may want to consider revising the ordinance and putting something in where you cannot operate 24 hours a day within either a residential zone or be in close proximately to a residential zone. As you can see there are some cases, particularly the Borough of Rutherford, where it appears they isolated one application and said convenience stores cannot operate anywhere in the Borough for 24 hours a day. The courts said that was discriminatory and they were not applying it to all retail establishments and they were not applying it to specific zones, they were just blanketing saying it couldn't be done. The Springfield case said yes it was ok to protect your residents and their peace, comfort, and welfare it's only in that residential area. So it's something you may want to consider, you do have some safeguards in there right now regarding noise and ambient, and so forth, he didn't know what was existing, if anything was potentially coming down pike, he was asked to review Ms. Bogart's memo and make some recommendations, and consider restricting retail establishments from operating on a 24 hour basis. Ms. Bogart also mentioned something that you may want to consider is extending hours for certain stores such as bagel stores and gyms. They are restricted in their hours and they like to open earlier than what is allowed. You may want to look at it as a whole, he was just touching on the 24 issue. Councilman Mignone had a few questions, Ms. Bogart's memo seems as if this was just given to her without any rationale. It's not as if the Board said we have these applications and these issues same up. She is basically saying the Planning Board should consider the land use issues being addressed first before addressing these issues. It a solution in search of a problem, until we know what the issue is that we are trying to address how do you modify an ordinance. Are there complaints, did we get anything from the Police Chief saying that some of the operations have presented a problem. What is the effect on planning or past board approvals, there is no mechanism for an appeal, can it be a conditional use. There are a lot of general questions, we need to define what the concerns are before amending an ordinance or address any short comings you think

the existing ordinances have. Councilman Papaleo agreed with Councilman Mignone's point and he questioned if an establishment opens on a 24 hour basis can we then change the ordinance or would they be grandfathered in. Mayor Moscaritolo and Mr. Sarlo felt they would be grandfathered in. Mr. Sarlo's recommendation would be that if you are operating now you can't expand your hours of operation, but if you are opened 24 hours now you are grandfathered in. Mayor Moscaritolo mentioned that right now the town has the River Edge Diner who is open 24 hours and is grandfathered in if any or none at all adopted ordinance, they will maintain their 24 hour operation. Councilman Papaleo asked if they sold the establishment would the 24 hour operation still be in effect. Mayor Moscaritolo said yes, only if the establishment closed down or destroyed by fire or something along those lines, they are a continuous pre-existing non-conforming use. Also the McDonald's has a 24 hour drive-up window, so they are operating. The Dunkin Donuts was open 24 hours, but they are no longer open 24 hours. The question is recently the Planning Board recently approved an application for 7-11 on Kinderkamack Road and there may another application for business that would like to be open 24 hours, so going forward what should the public policy be for the Borough of River Edge. Do we want to under this ordinance, have two employees, a burglar alarm, a security camera, can anybody stay open for 24 hours. Is that good enough to protect the quality of life in River Edge or do we want to change the public policy, that's the discussion. Councilman Papaleo just wanted to clarify that, he thought all the points made by Councilman Mignone were good points, but he is concerned with it and he thinks Councilman Mignone's questions should be answered and also move forward with strengthening the 24 hour ordinance. Councilman Mignone felt the question was why now, this has been in effect for many years, so if there is an issue, let's say what the issue is and what the concerns are now. Why does this have to be done right now, why can't it be done in six months, why wasn't it done two years ago. If there are issues, we should identify what the issues and concerns are. Councilwoman Murphy asked if it was possible to limit the amount of businesses in town. Mayor Moscaritolo said that couldn't be done. He also stated that he along with the Planning Board have been working on this issue for over a year, we now have an approved 7-11 with little restrictions in them opening for 24 hours. If the ordinance remains the same on the day they get their C/O and they have a camera, burglar alarm, and two employees they will be open 24 hours. Mayor Moscaritolo asked if that was what was wanted. The recommendation from the attorney is on the final page who thinks there should be a 200 foot restriction from any residential zone, which he thought was reasonable. He would recommend this be incorporated..simultaneous talking. Councilwoman Busted felt Councilman Mignone made valid points, the whole stretch of Kinderkamack is residents on one side and businesses on the other side, and she needs to understand exactly what these buffers look like, in the parcel that was approved for 7-11 where is 200 feet. Councilman Mignone said it doesn't matter because there is a residential zone right across the street. Mayor Moscaritolo said that the Planning Board doesn't have any authority to tell an applicant what their hours of operation should be. Councilman Mignone agreed but said this came up doing the hearing and the application was voted on and they testified that if they are open permitted to be open for 24 hours they intend to be open for 24 hours. Councilman Papaleo said that the 7-11 is a concern but there are further concerns, the Donte property which could attract a 24 hour business. The 7-11 will have apartments behind it, residents on Kinderkamack, if you move to other properties there are questions there. He felt that even if the ordinance isn't changed it would at least be explored. Councilwoman Murphy stated that the 7-11 came in and started working on the property, she didn't think the plug could be pulled now. She felt you shouldn't change an ordinance while they are working on their business model, she didn't think it was fair for that business. Councilman Mignone said they based their

business on what the ordinance was at the time. Mayor Moscaritolo felt that since the C/O wasn't issued yet, simultaneous talking. Mayor Moscaritolo stated that lawsuits didn't scare him. Councilwoman Murphy felt that it wasn't fair and it wasn't good business for a company to spend tens of thousands of dollars to remediate a property for a business and at the last minute you are not going to grant a C/O. Councilman Mignone asked what does it say to other businesses that you come into town we change the rules on you. Councilwoman Murphy stated that they came in under the rules that were in place at the time. Mayor Moscaritolo said that when the 7-11 on Kinderkamack Rd, is open 24 hours a day and all of the neighborhood is in here yelling at the Council for not doing anything when you had the opportunity...Councilwoman Murphy asked what he anticipated what was going to happen...simultaneous talking. Mayor Moscaritolo felt he did his job by bringing it to the Council, if Council doesn't want to continue the discussion they don't have to. Councilman Mignone felt this could have been brought to attention two years ago, why now. What's fair is fair, these people are operating under a level of understanding what the rules and regulations are and now you want to change it. Mayor Moscaritolo stated that now is the time to change it. There is no C/O, what if there is another 7-11 that wants to come to town and we have two, when do you change it. What if any of the businesses on Kinderkamack Road that are there now from the nail salon all the way up to the Oradell border, they all decided they wanted to stay open for 24 hours. Councilwoman Murphy made reference to Dunkin Donuts just recently stated they were closing at 11pm because it wasn't making any money after that time. Mayor Moscaritolo stated that Councilwoman Murphy believed that all businesses should be able to stay open 24 hours. Councilwoman Murphy replied that Mayor Moscaritolo felt that all businesses should shut down once he went to bed at 10pm. Councilman Mignone said that if he listened to the Planning Board tapes, they went through great length to try and craft some kind of language to exempt the diner and Dunkin Donuts, we know it's all about the 7-11. If there hasn't been a rush of applications for 24 hour businesses yet, why would you expect otherwise. Mayor Moscaritolo felt that it was bound to happen, and that 7-11 had unanswered questions about being open for 24 hours, all we could tell them was here was the ordinance. Go ahead and meet all the requirements you could be open for 24 hours. If you want them to remain like that or have an opportunity to change the law now is the time to do. Or otherwise when they open you will have the opportunity to change the law for the next 24 hour business that comes here but then they are going to say well you let the 7-11 do it, why can't we. It doesn't matter, now is the time to make a decision. Mayor Moscaritolo asked if the Council wanted to continue the discussion or just table it. Councilman Mignone had just one question, if this was not this section 152, should it be part of Zoning under 416, it would at least have, pre-existing conforming because it isn't a zoning issue. If it goes under zoning at least then it could be regulated as a zoning criteria, the zoning board could hear appeals, and apply for, there will be more creditability if it's part of zoning. You just can't change something on a whim, if they got approval based on the zoning code the Council can't change the condition and undo the zoning if they are already approved or under development. Mr. Sarlo said if the regulation of hours of operation should go under the zoning code, Councilman Mignone said regarding 24 hours. Mayor Moscaritolo asked why would you delegate the Council's responsibility to have an ordinance that applies to all operations delegated to the Zoning Board. This allows the Zoning Board to make determinations as to which businesses can open for 24 hours. Councilman Mignone stated they could do it now, to change the usage, and Mayor Moscaritolo said they didn't have the right to grant a change of use unless the ordinance allows them to do it. Mr. Sarlo got back to if the Planning or Zoning Board could change the hours of operation, it appears that the hours wouldn't need to be changed because if you have the three requirements you can pretty

much make your own hours of operation. Councilwoman Busted stated that the Council would need to think long and hard on how this will impact the quality of life for the residents in that area, and she would like more opportunity reflect on this and ask that the conversation be continued at another meeting rather than table it. Councilman Papaleo felt the same way. Mr. Sarlo stated that his draft was very broad and you could put in specific zones. Councilman Papaleo felt this was an issue the Council should look at this year. Mayor Moscaritolo said this will placed on the agenda for further discussion.

EXIT WORK SESSION AND ENTER INTO THE REGULAR MEETING AT 8:11 PM

EXIT REGULAR PUBLIC MEETING AND RETURN TO WORK SESSION AT 9:03 PM.

1. Approve Banner Request at 140 Kinderkamack Road for the July 4th Celebration.
A motion was made to approve this request.

Motion by Councilwoman Busted, second by Councilwoman Murphy
All in favor 6-0

UNFINISHED BUSINESS –

1. Review of Historic Element in the Master Plan – Councilwoman Busted stated that the commission met last week and they will be responding to Ms. Bogart’s draft, and hopefully get it on the agenda for upcoming meeting.
2. Capital List – Nothing new to report.
3. Grove Street – Nothing new to report
4. HVAC – Councilman Mignone mentioned that the Borough Hall lost hear today, and no one knew the reason. Mr. Negreann said that they established heat again and some parts needed to be ordered.
5. Library Roof and HVAC – Mr. Negreann said the architect was reaching out to the contractor to set up a schedule, but he will go back to the architect to see what the results were of the asbestos testing, even though there was one specific area that was found positive. It was discussed that there should now be a credit since it came in less than thought before.
6. Complete Streets – Noting to report.
7. Borough of River Edge Senior/Community Center – Councilman Acquafredda asked the Mayor to contact the architect.
8. Townwide Communications/Notifications – Nothing to report.
9. Generator – Fire Company #2 – Mr. Negreann nothing to report.
10. Shade Tree Commission – Nothing to report.

NEW BUSINESS – Mayor Moscaritolo said that he was looking for new Council Chamber chairs, and asked for suggestions. Councilman Acquafredda suggested 5 casters, management style, Steelcase Sensor Chair.

MOTION TO ADJOURN WORK SESSION AT 9:11 PM

Motion by Councilwoman Murphy, second by Councilman Papaleo to adjourn.
All in favor 6-0

Stephanie Evans, RMC
Borough Clerk
