M I N U T E S
Work Session Meeting of the Mayor and Council
Tuesday, February 17, 2015
7:00 P.M.

CALL THE MEETING TO ORDER -

Mayor Moscaritolo called the work session meeting to order at 7:00 p.m. by reading the Open Public Meetings Act.

ROLL CALL - Councilwoman Murphy, Councilman Cappola, Councilman Mignone, Councilman Acquafredda, Councilman Papaleo and Mayor Moscaritolo were present; Councilwoman Busteed was absent.

BOROUGH ADMINISTRATOR'S TOPICS -

Open Space Allocation- Alan Negreann explained that they've received a proposal from the Recreation Commission for $85,710.00, 9/11 Memorial Garden Committee - $5,750.00, DPW- $9,500 and a revised proposal form the Shade Tree Commission - $19,120.00. Also tonight they've received requests from the Environmental Commission for $2,750 and the Green Team for $3,400.00. He informed everyone that allocations this year should total $144,254.29. The requests total $126,230.00. He explained that we do have resolutions on tonight for the ones that have made requests earlier.
Mayor Moscaritolo-stated that they may be receiving a very small request from the Historic Commission or New Bridge Landing Commission for an allocation for programming for not more than $1,000.00.
Alan Negreann-stated that he has some concerns with the two new requests.
Environmental Commission - he still has $1,000.00 in the administration budget for their clean-up activities this year and they still have $1,000.00 remaining in the 2013 allocation.
The Green Team had requested money for the recycling calendar and the mailing of the recycling map which can be paid out of the Trust Fund. As far as the Community Garden, he's not sure if that qualifies as Recreation or an area of conservation that we can maintain since it's on Board of Education property. He placed a legal opinion in front of everyone which indicates that if we had an interlocal or shared services with the schools, it would be permissible but right now we don't. As far as the Farmer's Market he's not sure whether it fits within the law of developing and maintaining recreation and conservation property.
Councilman Mignone-stated that since the Environmental Commission already has $2,000.00 in Open Space allocations, he feels that they should be able to find $750.00 in the operating budget to

give them their full amount.
Mayor Moscaritolo-stated that he knows that they sent out the motor to be repaired and asked if that has been paid?
Alan Negreann-replied yes.
Mayor Moscaritolo-wanted to make sure they still have $2,000 after everything has been paid.

Motion by Councilman Mignone, seconded by Councilman Papaleo to deny the Open Space Request for the Environmental Commission because they still have $2,000.00 from last year and will take $750.00 out of the operating budget to cover the request.

ROLL CALL VOTE: Councilwoman Murphy, Councilman Cappola, Councilman Mignone, Councilman Acquafredda and Councilman Papaleo voted yes; Councilwoman Busteed was absent.

Motion by Councilman Mignone, seconded by Councilman Papaleo to deny the $400.00 Open Space request from the Green Team for the recycling calendars because they can be paid from the Trust Fund.

Councilwoman Murphy-asked if anyone knows the exact cost?
Alan Negreann-stated that whatever the cost is, he'll cover it through the Trust Account.

ROLL CALL VOTE: Councilwoman Murphy, Councilman Cappola, Councilman Mignone, Councilman Acquafredda and Councilman Papaleo voted yes; Councilwoman Busteed was absent.

Councilman Mignone-stated that he thought we had some type of agreement with the schools for access to the Community Garden.
Alan Negreann-stated that he doesn't recall.
Councilwoman Murphy-also thought they had an agreement with the Middle School allowing access.
Mayor Moscaritolo-stated that he thought that there was a resolution.
Alan Negreann-said that he would look into it.
Councilman Mignone-said that if we do have an agreement, he would recommend keeping the $1,000 in Open Space for that purpose.

Motion by Councilman Mignone, seconded by Councilman Papaleo to keep the $1,000.00 in Open Space for the Community Garden.

ROLL CALL VOTE: Councilwoman Murphy, Councilman Cappola, Councilman Mignone, Councilman Acquafredda and Councilman Papaleo voted yes; Councilwoman Busteed was absent.

Mayor Moscaritolo-asked about the Farmer's Market.
Tom Sarlo, Esq.-explained that the Farmer's Market does not qualify under the Open Space Trust Fund.

Mayor Moscaritolo-asked Councilwoman Murphy is she would withdraw the request on behalf of the Green Team.
Councilwoman Murphy-said that she spoke with Alan and he said that he would find funding for the market.

ADA Ramps - Kinderkamack Road

Alan Negreann-had provided a copy of a memorandum and letter from the Borough Engineer to the Mayor and Council which indicates that the $15,000 contract for design has been spent and he needs an additional $8,000 to complete the design work on the ADA ramps. Alan explained that we will be getting some funding, approximately $6,000 from the County, but the balance of funds for design will have to come from Borough. In addition, Mr. Costa is requesting approximately $13,500 for inspection work so Alan's is suggesting an amendment of $30,000 to make sure we have enough engineering money to complete the project on Kinderkamack Road. He's suggesting that since we have additional funding left over from the construction portion of the ramps at this time, they consider introducing an ordinance at the next meeting to move the money from the improvement authorization or construction side to the other expense or engineering side. There is no money involved and would just be a matter of transferring from one part of the ordinance to the other and then a contract could be awarded.

Motion by Councilwoman Murphy, seconded by Councilman Cappola to move $30,000 from the improvement authorization or construction side of Ordinance #1806 to the other expense or engineering portion.

ROLL CALL VOTE: Councilwoman Murphy, Councilman Cappola, Councilman Mignone, Councilman Acquafredda and Councilman Papaleo voted yes; Councilwoman Busteed was absent.

Councilman Mignone- stated that the design portion is reimbursed by the County for a fixed cost of approximately $6,000 or $7,000 which they feel is sufficient to complete the design work. He continued to say that now the County is telling us that the price has tripled and he feels that if that's the case, we should go back to the County to see if they are going to cover at least part of the significant increase. Councilman Mignone is concerned that the same thing will happen when they start construction and that they'll say they'll only pay a certain percentage and we'll end up paying hundreds of thousands of dollars out of pocket to cover the balance. He feels that we need clarification from the County to see if they'll pick up any of the additional design costs if it is warranted and clarify

that they will pay the cost of the project whatever it comes out to be.
Alan Negreann-stated that it has been his experience when dealing with the County, that when we have a County contract that is standard and uniform throughout the County and applies to other towns, it is not likely that they will deviate from the contract. There are stipulated rates of pay in the contract and they won't want to set a precedent by making exceptions for one municipality that might lead to exceptions for another municipality. He said that he would be happy to write the letter, but doesn't want to raise expectations.
Councilman Mignone-stated that the County reimbursements seem to be based on a straight paper design and don't take into account grading, utilities, etc.
Councilwoman Murphy-thinks that it's a legitimate question that every town should be asking.
Mayor Moscaritolo-asked if in the agreement with the County, does it quote unit costs and reimbursement rates?
Alan Negreann-replied yes, so much for a corner ramp or crosswalk ramp.
Councilman Mignone-stated they've changed the way they used to do it. In the original program, they used to have the Borough Engineers come up with design costs and then the County would approve it. They scaled back and decided to go with fixed costs on different types of ramps and now the difference in costs could be significant.
Mayor Moscaritolo- feels that if we don't get bids that meet or come under what we go out for, we'd have to reject all of the bids.
Alan Negreann-explained that with this program, the County is the lead agency and has already gone out county-wide for the bid. They have awarded a bid to Concrete Construction. We have a resolution on tonight awarding our contract to Concrete Construction for the engineering estimate that was approved by the County. Therefore, we won't have the opportunity to reject the bids.
Mayor Moscaritolo-stated that if the County has the contract and the contract is to pay a certain amount, then that's all we should owe.
Councilman Mignone-was under the impression that we have to pay for the construction work first and then get reimbursed.
Alan Negreann-replied that is correct. He asked if the Mayor and Council would like him to invite Mr. Costa to the next meeting to discuss this further?
Mayor Moscaritolo-replied, yes.
Councilman Mignone-stated that the first time that they did this program in Fort Lee, the estimate to do the ramps was $20,000 and it actually ended up costing $220,000 to complete. That's why he wants to make sure we're not on the hook to absorb the difference in the costs.

FOR DISCUSSION -

Fred Brody from Cross River Fiber - Right of Way Use Agreement for the Installation of Fiber Optic Cable to Existing Utility Poles or Conduits

Mayor Moscaritolo-asked Mr. Brody why he needs a Right of Way Agreement from the Borough?
Mr. Brody-explained that Cross River Fiber is a utility and they're going to be occupying space in the public right of way and even though they will be attaching to existing utility and phone poles, his company requires an agreement. The agreement is so the utility and phone company's know that the town is aware that they will be doing this work.
Mayor Moscaritolo-asked if they are going to be putting up a new wire?
Mr. Brody-replied, yes.
Mayor Moscaritolo-asked when they put up the wire, will they have to reconfigure traffic, put up cones or have a policeman direct traffic? The Mayor also asked if this would be done along Kinderkamack Road?
Mr. Brody-stated that they don't know the exact route at this time but once they get permission from the town, they will engineer the route and before they put it up, they will engage the Police Department for safety. He explained that it's all commercial and industrial and has nothing to do with residential.
Alan Negreann-stated that many years ago we had a company called MetroCom that wanted to install a piece of equipment on the overhead cobra lamps for internet access. They did so and ultimately they went bankrupt. Then came the issue of who would remove it. He asked if there are some assurances that after they string this wire, if they were to unfortunately go bankrupt or need to walk away from the project, will someone will be responsible to take it down.
Mr. Brody-explained that if something would happen with Cross River then an incumbent would step in which would be in accordance with the agreement. He also stated that in order to do this, the financial where with all is part of the agreement.
Mayor Moscaritolo-asked what does Cross River Fiber do?
Mr. Brody-explained that they call themselves a dark fiber or boutique fiber optic cable provider and their clients are hospital systems, data centers, etc. The company owns, operates and maintains the fiber and hands it off to companies who put their data through it. They compare it to water; they own the pipe and the customers put their own water through it.
Councilman Mignone-stated that in their letter they say they are looking to attach or install the cable to existing utility poles and conduits. The agreement talks about potential other

infrastructure that Cross River Fiber may construct. Do you see any build up plans which would require installation of manholes or conduit running within the streets or sidewalks and have you had that type of installation anywhere else?
Mr. Brody-stated that one of the questions that they've been asked is how this will benefit the town and they feel that having a fat pipe does attract companies. Mr. Brody assured everyone that if that was the case, they would obtain all of the proper permits before the work is started.
Councilman Mignone-asked if he envisions a connection to an individual service or would they have to run trunk lines down Kinderkamack and install manholes.
Mr. Brody-replied no, they're looking to attach to existing infrastructure.
Councilman Mignone-stated that our main traffic artery is Kinderkamack Road which is a County road so we really don't control the right of way.
Mr. Brody-stated that they have received permission from the County and the State.
Councilwoman Murphy-asked if anything is buried or is it all on the pole?
Mr. Brody-responded that it's all aerial unless there is a certain district where you don't have any telephone poles.
Councilwoman Murphy-asked if they have a map of where they anticipate doing the work.
Mr. Brody-answered not yet because first they have to solicit customers.
Councilwoman Murphy-asked what happens if they don't get customers?
Mr. Brody-replied, if they didn't have the customers, they wouldn't be looking for the town's permission.
Councilwoman Murphy-stated that in the proposal, there was a legal document and feels that basically they're telling them they're not able to say no to this proposal.
Councilman Papaleo-understood Mr. Brody to say that they've already received approval from the County for the Kinderkamack Road corridor. He doesn't understand why we would vote yes to the proposal when it would mean we'd be stringing lines through our residential areas which would add an urban feel.
Mr. Brody-stated that depending on where their clients are, they would want to take the shortest route.
Councilman Papaleo-stated that he doesn't see a benefit for the residents to have another cable running through our residential areas.
Mr. Brody-said that they're looking to promote commerce and competition which would benefit the town.
Councilman Mignone-asked Mr. Sarlo if this company would be exempt from obtaining any permits or paying fees for road openings?
Tom Sarlo, Esq.-replied no, if they are stringing wires they

would not require permits but if they are opening roads they would require a permit.
Councilman Mignone-stated that one thing that he wants to avoid is if they have to put in a manhole, they be required to put it in the street and not on the sidewalk. This way they would have to take out a road opening permit and be required to restore the roadway to what it was originally. He wants to make sure there is no loophole where they might be able to put it in the sidewalk and would not have to obtain a permit.
Tom Sarlo, Esq.-asked if they've ever had to open up a street in other municipalities.
Mr. Brody-replied, yes.
Tom Sarlo, Esq.-asked if they've had to take out road opening permits?
Mr. Brody-replied, yes and they've repaired the road to its original state.
Mayor Moscaritolo-asked if they've gotten permission from Oradell, Paramus or Hackensack?
Mr. Brody-explained that they are currently working on getting permission from Oradell and they have permission from Hackensack and Paramus.
Mayor Moscaritolo-stated that Kinderkamack Road, which is the main artery in River Edge, Midland Avenue and Main Street are all County roads. He again asked if they have permission from the County. Mayor Moscaritolo stated that Mr. Brody had indicated that they haven't designed the system yet and explained that all of the commercial entities are along Kinderkamack Road or Main Street and not in the residential part of town. He asked why they couldn't design the system to utilize the County roads.
Mr. Brody-stated that he can't speak for the owners of the company but they always want to take the shortest distance between two points and if it happens to be on a municipal road, then that's what they would build, engineer and pay for.
Councilwoman Murphy-mentioned that Mr. Brody spoke about connectivity and being a good neighbor and asked if we needed connectivity to this building, would that be something his company would think about.
Mr. Brody-replied, not really.
Councilwoman Murphy-asked what the benefit to us would be.
Mr. Brody-replied that it would be like a super highway going through your town bringing connectivity to your school district, first responders or your desktop. They are a for-profit company and certain things are not feasible. He explained that he is not one of the owners, he's a consultant and feels that anything would be open for discussion.
Mayor Moscaritolo-thanked Mr. Brody for coming in and answering questions and told him that the resolution would be listed for the next meeting for a formal vote and he would be notified of the outcome.

SCORE - Bylaws and Elections -

Tom Sarlo, Esq.-stated that he met with Councilman Cappola, Councilwoman Busteed and members of SCORE back in October or November and explained to them why the Mayor and Council were taking action with regard to establishing SCORE. He is of the opinion that SCORE technically doesn't exist as an organization because there are no by-laws. This came about because there they had an issue among a few members and after some research it was found that there were no by-laws and nothing establishing them as an organization even though the Mayor and Council and the Borough fund them. After meeting with them, he provided simple by-laws and suggested that they come up with a committee to meet with himself, Councilwoman Busteed and Councilman Cappola. As of this date, he hasn't heard if they've established a committee. He also created an ordinance where the Mayor and Council would select a Citizen's Advisory Committee to oversee SCORE. The Mayor and Council advised him that they really didn't want to go that route so he drafted something that recognizes SCORE as an organization, that they were created by ordinance, and that we basically fund them. They indicated that they wanted to keep the ordinance bare bones without attaching the bylaws so he's come back with a revised ordinance that is scaled down. He understands that there's been discussion with regard to whether the ordinance should set forth some type of creation of a presidency or vice presidency which could certainly be adopted in the ordinance. He further explained that once something is stated in the ordinance, it can only be changed by amending the ordinance but if its part of the bylaws, it's a simpler process. He's open for suggestions and discussion as to which way they want to go with it.
Councilman Mignone-feels that this is good framework for what they want to accomplish. He feels that it's not overly complicated and is direct and straight forward.
Councilman Cappola-agrees with Councilman Mignone. He added that he and Councilwoman Busteed should be there during the elections to make sure things run smoothly.
Mayor Moscaritolo-suggested that the membership elect a Chair, Vice-chair, Secretary and Treasurer annually and those 4 people can decide to propose or recommend the bylaws that get adopted by the entire organization. He feels that you need some type of governance to get from membership to bylaws. He also feels that something needs to be in the ordinance that the membership should elect the officials.
Councilman Papaleo-suggested making the Secretary/Treasurer one person instead of two separate offices.
Mayor Moscaritolo-would like it stated that anyone holding an office must be a resident of River Edge.
Councilman Papaleo-agreed.
Tom Sarlo, Esq.-wanted to clarify that membership is open to all

residents in Bergen County but to hold an office, the ordinance would read that you must be a resident of River Edge. He mentioned that his current proposed bylaws had that included.
Mayor Moscaritolo-stated that if the Council is okay with the recommendations for the modification, he would like to open up to the public for comments from the membership.

Motion by Councilwoman Murphy, seconded by Councilman Cappola to open for public comment.

ROLL CALL VOTE: Councilwoman Murphy, Councilman Cappola, Councilman Mignone, Councilman Acquafredda and Councilman Papaleo voted yes; Councilwoman Busteed was absent.

Sondra Berman-373 Oak Avenue-stated that SCORE has been in existence for many years and explained that the positions of Secretary and Treasurer should stay separate because they each have different responsibilities. She feels that four people would work better for them.
Councilman Papaleo-said that he would withdraw his recommendation if that's what they would like.
Tom Sarlo, Esq.-asked who would elect the President and Vice-President if he puts it in the ordinance? He stated that usually the nominating process for the elections are listed in the bylaws.
Councilman Papaleo-asked if they could stipulate in the ordinance that the initial officers would be appointed by the Mayor and Council and from that point on they would be appointed by the membership.
Mayor Moscaritolo-explained that another way would be to say that at the SCORE meeting following the passage of the ordinance, they have to elect from the floor, a President, Vice-president, Treasurer and Secretary. After that, they can go to work and take their time to develop the bylaws that they want to have.
Councilman Cappola-said that he and Councilwoman Busteed would like to be there to oversee the election and asked if that still would be the case?
Tom Sarlo, Esq.-explained that it appears that the Mayor and Council will be doing the initial appointments for the first year.
Councilman Mignone-asked for further clarification.
Mayor Moscaritolo-explained that once the ordinance gets adopted, Ellen and Anthony will go to the next SCORE meeting and facilitate the nominations made from the floor. At that time votes will be counted and the appointments will be made. In due course, a set of bylaws gets approved by the membership.
Tom Sarlo, Esq.-stated that there's a whole separate section about elections in the bylaws. If you're not passing the bylaws, there are no bylaws being proposed for the membership to vote on. He continued to say that December, which will be the time to hold

new elections, will come around very quickly and if the bylaws are not done, we're back to square one. Basically, there would be an interim government running SCORE without anything in place.
Councilman Papaleo-stated that's why he suggested attaching the bylaws.
Mayor Moscaritolo-explained that you can't attached bylaws for an organization that has not adopted them.
Councilman Mignone-suggested putting a time frame on the adoption of the bylaws.
Mayor Moscaritolo-stated that you can have a proposed set of bylaws ready to go upon the new board taking their seats.
Sondra Berman-stated that they did have a meeting and they did elect a bylaws committee but they were unable to meet due to weather and holiday conflicts. She feels that the bylaws that Mr. Sarlo has prepared will be perfect with a few tweaks.
Ann Osmundsen-163 Manning Avenue-said that she's gone over them and under #5 she feels that it should specify that only seniors that live in River Edge have the right to vote.
Mayor Moscaritolo-stated that they're getting a little ahead of themselves because changes or modifications of the bylaws can only be made by the membership after we adopt the ordinance and elect officers.
Carol Mah-680 Center Avenue-thanked Mr. Sarlo for incorporating their ideas into the bylaws but stated that there are a lot of mixed feelings from the membership at SCORE. She would like the Mayor and Council to take the first step and adopt the ordinance because she feels that the members will have to work out their differences and come up with officers.
Sondra Berman-felt that for many years SCORE has run very smoothly. She also stated that there are a lot of conflicted opinions from the membership but feels that they need to vote on the bylaws and proceed with elections.
Mayor Moscaritolo-stated that we have to pass an ordinance. Because right now, if the SCORE organization is not under the umbrella of the Borough, the Borough Attorney cannot give advice or recommendations. Every organization of the Borough has a structure and SCORE right now doesn't have an organized structure. The Mayor stated that there is no member of Council that wants to control the day to day activities of SCORE. They want them to have total control over their activities.

Motion by Councilwoman Murphy, seconded by Councilman Mignone to close public comments.

ROLL CALL VOTE: Councilwoman Murphy, Councilman Cappola, Councilman Mignone, Councilman Acquafredda and Councilman Papaleo voted yes; Councilwoman Busteed was absent.

Tom Sarlo, Esq.-stated that he will amend the ordinance by adding the Mayor and Council's recommendation of including a President,

Vice President, Secretary and Treasurer.
Mayor Moscaritolo-stated that after the first reading, it will be put up for adoption and be voted on and once it's adopted, Councilman Cappola and Councilwoman Busteed will attend the next meeting and will oversee a fair election of officers. Hopefully by that time there will be a proposed set of bylaws that can be adopted which will include a procedure in case there is a reason to amend them. The Mayor thanked the members of SCORE for attending the meeting this evening.

Ordinance #1817 - Amending Chapter 416, Zoning Article VIII - Nonconforming Use/Structure Ordinance

Mayor Moscaritolo-stated that they've received a memorandum from the Borough Planner, Brigette Bogart where she makes a recommendation regarding the ordinance. She recommends that our existing ordinance be amended to include Mr. Grasso's suggestions for the C-1 Commercial Neighborhood Business Zoned District. The Mayor explained that her suggestion is that it would not be a good idea to have the proposed zoning change for the entire town.
Councilman Mignone-asked if Mr. Sarlo could provide an opinion on whether the Planners recommendations are consistent with case law. He feels that it's not just adopting a simple change it will require a study and analysis to see what the impact will be long term.
Councilman Acquafredda-stated that this would have to be handled by the Zoning Board and is more complicated and agrees with Councilman Mignone's suggestion about getting an opinion from the Borough Attorney. Councilman Acquafredda stated that they need to be careful and aware of being accused of spot zoning.
Mayor Moscaritolo-said that it's not spot zoning if it applies to entire C-1 zone.
Councilman Acquafredda-asked if it really should be applied to the entire C-1 zone?

There was further discussion on the recommendations of the Planner.

Councilman Mignone-suggested that they accept the recommendation not to change the non-conforming structure language. He continued to say that if we're going to change the non-conforming use language to be consistent with current case law, he suggests that Mr. Sarlo review it to see if there is something wrong with our current language or whether it's fine the way it is.

WORK SESSION CONSENT AGENDA -

Motion by Councilman Mignone, seconded by Councilman Cappola to approve the work session consent agenda.

ROLL CALL VOTE: Councilwoman Murphy, Councilman Cappola, Councilman Mignone, Councilman Acquafredda and Councilman Papaleo voted yes; Councilwoman Busteed was absent.

1. Transitional Aid Application - To Not Apply
2. Approve resolution authorizing Alan Spiniello, Esq., to Enter into a Stipulation of Settlement with James & Susan Korath, 712 8th Avenue, Block 308, Lot 15

UNFINISHED BUSINESS - No Comments

- Review of Historic Element in the Master Plan
- Capital List - See Report
- Grove Street
- HVAC
- Library Roof and HVAC
- Complete Streets
- Borough of River Edge Senior/Community Center
- Townwide Communications/Notifications
- Generator - Fire Company #2
- Shade Tree Commission

OPEN PUBLIC HEARING -

Motion by Councilwoman Murphy, seconded by Councilman Mignone to open hearing of the public.

ROLL CALL VOTE: Councilwoman Murphy, Councilman Cappola, Councilman Mignone, Councilman Acquafredda and Councilman Papaleo voted yes; Councilwoman Busteed was absent.

Lou Grasso-agrees with the Mayor and Council's comments with regard to the Planner's report. He feels that it would be a good idea to change the zoning especially in the business district on Kinderkamack, so that in the future, it will continue to look very similar to the way it looks now.

CLOSE PUBLIC HEARING -

Motion by Councilwoman Murphy, seconded by Councilman Mignone to close hearing of the public.

ROLL CALL VOTE: Councilwoman Murphy, Councilman Cappola, Councilman Mignone, Councilman Acquafredda and Councilman Papaleo voted yes; Councilwoman Busteed was absent.

ADJOURNMENT - 8:10 P.M.

Motion by Councilwoman Murphy, seconded by Councilman Mignone to adjourn the work session meeting at 8:10 p.m.

ROLL CALL VOTE: Councilwoman Murphy, Councilman Cappola, Councilman Mignone, Councilman Acquafredda and Councilman Papaleo voted yes; Councilwoman Busteed was absent.