

January 30, 2009
Hawthorne, New Jersey

A Special Meeting of the Municipal Council of the Borough of Hawthorne was held on the above date at 5:00 p.m., in the Auditorium of the Municipal Building, 445 Lafayette Avenue, Hawthorne, New Jersey. Present were Councilmembers Bertollo, English, Matthews, Mele, and Wojtecki. Also present were Mayor Goldberg, Borough Administrator Maurer, Borough Attorney Pasquale, and Borough Clerk Witkowski. Councilman Bennett, Director of Finance Hewitt and Borough Engineer Boswell were not present.

FLAG SALUTE

Council President Bertollo invited all present to join him in the flag salute.

STATEMENT

Council President Bertollo stated that adequate notice of this meeting was given by the posting of the same on the Public Bulletin Board at the Municipal Building, on Wednesday, January 28, 2009 and by delivering such notices to the Hawthorne Press, The Herald News, The Record and The Gazette and all persons who have requested the mailing of such schedule, and a copy of said schedule has remained on file in the office of the Borough Clerk from and since December 17, 2008.

RESOLUTIONS:

CONSENT AGENDA: R1-R2

R-1 Resolution Opposing Cuts in Municipal Aid

R-2 Resolution Requesting Amendments to A3688 and S7 to preserve cap exceptions for certain municipalities and to require the New Jersey Division of Pension to provide budgetary estimate to municipalities

Council President Bertollo entertained a motion to approve Resolution R1-R2 on Consent Agenda.

On a motion by Councilman Sinning, seconded by Councilman Wojtecki

Council President Bertollo asked for discussion. Administrator Maurer explained that the Assembly bill is moving on the fast track and the League of Municipalities does not want to consider any amendments at this point. The form of the bill is of

concern to Mr. Maurer as we were going to reserve the full amount and according to the Division of Local Government Services, under the existing language, we would lose our cap exemption if we try to reserve the money. This is now a voluntary action not a mandatory one and this would prevent us of performing the best fiscal practice for Hawthorne by saying you are allowed to do this but would lose the cap exception. He has a telephone conference call with Assemblywoman Pou on Monday to speak to her, as she is on the Budget Committee, and contacted Senator Girgenti's office to inform him of the telephone call scheduled. The League of Municipalities is under the impression that the Assembly is looking to move this bill, and the Senate might have questions. Councilman Wojtecki complimented Mr. Maurer on his email and questioned why he also did not reach out to Assemblywoman Evans as well. Mr. Maurer said that he could, but after speaking to the League of Municipalities and to Senator Girgenti's office, they both suggested speaking to Assemblywoman Pou being on the budget committee. Councilman Wojtecki suggested that the three Finance Committee members meet at Assemblywoman Pou's office and speak to her directly, but Mr. Maurer said he does not know where she will be calling from for the conference call. Mayor Goldberg said that this has been very much a concern of Mr. Maurer. Councilman Wojtecki is concerned that this will be another resolution that will not be acknowledged and address our concerns. If it was an exception to the cap, we want to do the right thing, and considers this to be a punishment by including into the cap. Councilman Sinning questioned what the State would gain. Mayor Goldberg explained that municipal aid is being cut, and instead of funding in the tax base, fund other items that are being cut and pay this back when times are better. Mr. Maurer said that there is nothing specifically being addressed in the bill. The Division of Local Government Services states that the existing cap exception is for required payment, if it is no longer required payment, because of opting to fully fund the amount, the legislation might not have paid attention to it. April 1st is nearing and pension payments are due, they do not have time to change the bill, just pass it as presented. They feel that most people would rather take the reduction on their homes. Credit can be taken for keeping property taxes down by that amount or they do not want to spend time addressing the concerns at this point. He said it could be either issue.

Mr. Maurer explained that the second resolution addresses the issue of reduction in aid, pension payments will be \$800,000. But in a few years, pension payments will be up \$800,000. and there will not be \$800,000. more in aid. Part of aid is reduced pension payments, small increases in aid in subsequent years and since taken away, Mr. Maurer feels the same thing will happen again. Next year's budget will not be any easier than this year. Anything that is not under construction now, will not be built. Any increases in ratables any municipality may have, maybe an increase this year, maybe next year as things are finished, and yet there will probably be an increase in appeals. Municipalities will be faced with increases in pension payments. Mayor Goldberg reminded the council of the last time the pension payments were reduced, the stock market outperformed

the pension plans, no reason to put any money into them. This time they are delaying it, and by delaying they are claiming they are holding the line on property taxes. In three years property taxes will need to be increased to catch up with the pension payments. Mr. Maurer said that over the next three years our tax rate will increase 6-7 cents just for pension payments alone. If this year's pension is reduced because of reduction of state aid, there is no relief this year and will possibly be looking at an 11 cent increase and he feels this plan is structured to look at today only and not in to the future. The structure needs to be addressed so that municipalities thinking about the future can be fiscally responsible.

Council President Bertollo commended Mr. Maurer on the thorough report he presented to the council and wished him good luck in his conference call with Assemblywoman Pou. He said that maybe a phone call from each expressing their disappointment in this bill may be helpful.

Council President Bertollo asked for a roll call.
On a roll call, all voted yes.

R-3 Rejection of all bids received on January 15, 2009 for the Municipal Building Chiller and Air Handling Unit Replacement

Council President Bertollo entertained a motion to approve Resolution R-3.

On a motion by Councilman Matthews, seconded by Councilwoman English.

Council President Bertollo asked Attorney Pasquale to comment on the process. Mr. Pasquale explained that he went through all eighteen bids received, of the eighteen, six were non compliant, including the two lowest bids. Sub-contractors were identified in the bid documents, and yet they failed to submit Public Works Contractor Registrations. He reviewed the bid document forms, elsewhere it states to list the subcontractors, provide Public Works Contractor Registration, it is not explicit on the page where the mistake was being made. Recommendation was to rebid and when a subcontractor is listed, we need to know that they are indeed a licensed public works contractor be sure to include their Public Works Registration Contract certificate for each. The law states it needs to be in there and many contractors do not realize that each subcontractor needs the certificate and we should bring it to their attention to get the best bids possible.

All the bids exceeded the engineer's estimates. Some were as much as 10% over the estimate, beyond the values of what we were willing to pay. For reason of the dollar value and because six of the eighteen having the same mistake shows that there was a problem in the bid process itself, Mr. Pasquale's recommendation is to reject all bids and rebid the project. Mr. Maurer explained that the reason for tonight's meeting is to advertise as soon as possible to rebid

and award at the meeting of February 18th. Council President Bertollo explained that he had spoken to Mr. Maurer regarding this meeting, and he agreed to move this on a fast track to have the work completed in time for the summer season and the heat. Dr. Boswell said the project will take 90 days to complete. Mayor Goldberg said a copy of the bid will be in the council room to review the scope of the work. Councilwoman English said she too would like to see the project move ahead at this time as she received many calls regarding this situation. Councilman Matthews asked about the bid language in what we give the contractor or the engineer's packet. Mr. Maurer said that they use a standard form, and it was suggested to include where they list the subcontractors, repeat the language, for all the subs listed below include the following documents, etc. Mr. Pasquale said that what we get from Boswell, a legally required document. He said that in the packet there should be a page in bold letters stating that if you list a sub you must provide proof that he/she is a licensed public contractor or you cannot get the contract. Councilman Wojtecki asked if we charge a fee to bid. Mr. Pasquale said he believes it is \$25.00 charge but it depends on the size of the job. Councilman Wojtecki asked if the fee could be waived if they previously bid on the job. Councilman Matthews said that the scope of your work did not change, and the form would be their clarification and they would not need to take the drawings out. Mr. Pasquale said to leave the fee in place.. Council President asked if this was a new process, Mr. Pasquale said no this has been in place a while and contractors should be well aware of the requirements.

Council President Bertollo asked for a roll call.
On a roll call, all voted yes.

Council President Bertollo commented that late yesterday afternoon the Mayor was informed that the auditor, Joseph Kelly of Lerch, Vinci and Higgins resigned from the firm. This afternoon there was a conference call with Mayor Goldberg, Mr. Maurer, Ms. Hewitt, Mr. Pasquale, Council President Bertollo and Peter Lerch to discuss the transition period. Jeffrey Bliss, RMA, CPA, PSA will be taking over for Mr. Kelly. There will be a closed session with Mr. Bliss during our next meeting for the council to ask any questions of him. He has been with the firm for about twelve years. Mr. Maurer said that the onsite people we have here now he feels confident in them and the transition should be a seamless if the council agrees. Council President Bertollo asked Mr. Pasquale if he needs to be appointed by resolution. He said yes, as a past practice we have named the individual person from the firm. Another person was first recommended, but the name was not familiar, so they said no. Mr. Bliss was then mentioned, Mr. Maurer had worked with him in a previous job setting. Councilman Wojtecki asked if next year we would consider going with the firm that Mr. Kelly has moved on to. Mayor Goldberg said that he had a conversation with Mr. Kelly that next year we will look when the council considers the position, and that he does not have a non-compete in his contract. Mr. Pasquale said that Mr. Kelly does not know at this time where he will end up, and felt that this is the route to go for 2008 and 2009 and open it up in 2010 to see where Mr. Kelly is at that time.

Councilman Matthews asked if there were any impropriety upon his leaving and both sides said no, it was a difference in management styles. Wednesday night he will attend the meeting and any questions can be asked, and if the council desires, appoint Mr. Bliss during the regular portion of the meeting.

PUBLIC COMMENT

Council President Bertollo opened the meeting to the public. He stated if anyone desires to be heard, please raise your hand to be recognized, come forward to the microphone and state your name and address for the record.

Being none, Council President Bertollo entertained a motion to close the public portion, moved by Councilman Matthews, seconded by Councilman Sinning. On a roll call, all voted yes.

ADJOURNMENT

Council President Bertollo entertained a motion to adjourn the Special Public Meeting at 5:26 p.m., moved by Councilman Matthews, seconded by Councilwoman Mele. On a roll call, all voted yes.

THE NEXT REGULAR MEETING OF THE MUNICIPAL COUNCIL WILL BE ON WEDNESDAY, FEBRUARY 4, 2009. THE WORKSESSION WILL BEGIN AT 7:00 P.M. AND THE REGULAR MEETING WILL BEGIN AT 8:00 P.M.

PERSONS WITH DISABILITIES REQUIRING AIDES SUCH AS: SIGN LANGUAGE INTERPRETER, TELECOMMUNICATION, BRAILLE, TAPES OR LARGE PRINT, THE BOROUGH CLERK'S OFFICE SHOULD BE NOTIFIED TEN DAYS PRIOR TO ATTENDANCE AT A MEETING SO ACCOMMODATIONS MAY BE MADE.

John Bertollo
Council President

Susan Witkowski
Borough Clerk