

Mayor and Council of the Borough of Allendale
Regular Session Meeting Minutes
January 31, 2019

A Regular Session Meeting of the Mayor and Council of the Borough of Allendale was held in the Municipal Building at 500 West Crescent Avenue, Allendale, NJ on January 31, 2019. The meeting was called to order at 8:00 p.m. by Mayor Bernstein who asked that the Deputy Municipal Clerk read the open public meetings statement: "In compliance with the Open Public Meetings Act, the notice requirements have been satisfied. The meeting dates for the year are confirmed at the Annual Meeting, are posted on the public bulletin board in the Municipal Building, published in the Record within the first 10 days of the New Year, and copies are sent to the Ridgewood News and Star Ledger."

The Mayor led those present in a salute to the flag.

Deputy Clerk Ryan called the roll of the present Council, which consisted of Mayor Bernstein and Councilmembers Liz Homan, Edward O'Connell, Steve Sasso Jim Strauch and Amy Wilczynski.

Approval of Minutes:

Motion by Councilwoman Homan, second by Councilwoman Wilczynski, that the Minutes of January 17, 2019 Closed Executive Session (not to be released), January 17, 2019 Work Session and January 17, 2019 Regular Session are approved.

On a roll call, the vote was recorded as follows:

Councilwoman Homan:	aye	Councilman Strauch:	abstain
Councilman O'Connell:	aye	Councilwoman Wilczynski:	aye
Councilman Sasso:	aye		

Public Comment

No one came forward.

Appointment & Swearing In of Council Replacement

19-72/Appointment of Councilperson – Governing Body Vacancy

Mayor Bernstein explained that this appointment is being made pursuant to N.J.S.A. 40A:16-11 to fill the vacancy created by his election as Mayor. He noted that the governing body received the names of three great candidates from the Republican Municipal Committee, all of whom would have served the Borough well. He advised that due diligence was done by the governing body through conducting interviews of each candidate.

Motion by Councilman Sasso, second by Councilwoman Wilczynski, that Resolution #19-72 be approved.

On a roll call, the vote was recorded as follows:

Councilwoman Homan:	aye	Councilman Strauch:	aye
Councilman O'Connell:	aye	Councilwoman Wilczynski:	aye
Councilman Sasso:	aye		

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Mayor Bernstein administered the Oath of Office to Councilman Matthew O'Toole.

Deputy Clerk Ryan called the roll of the 2019 Mayor and Council.

PRESENT: Mayor Ari Bernstein and Councilmembers Liz Homan, Edward O'Connell, Matthew O'Toole Steve Sasso, Jim Strauch and Amy Wilczynski

ABSENT: None

ALSO PRESENT: Borough Attorney Raymond Wiss
Municipal Clerk Anne Dodd

Resolution 19-72

Resolution Appointing Member of Borough Council

WHEREAS, as a result of the election of Ari Bernstein as Mayor of the Borough of Allendale ("Allendale"), there now exists a vacancy on the Borough Council; and

WHEREAS, N.J.S.A. 40A:16-11 provides the statutory mechanism for filling such vacancy; and

WHEREAS, pursuant to said statute, the Mayor and Council have duly received from the Municipal Committee of the Republican Party in Allendale the names of three nominees for consideration in filling such vacancy, and have duly considered the credentials and qualifications of said nominees; and

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Allendale that Matthew O'Toole be and hereby is nominated, appointed and confirmed as a Member of the Allendale Borough Council effective immediately to fill the vacancy of the office vacated by Ari Bernstein; and

BE IT FURTHER RESOLVED that the Mayor, the Borough Clerk and the Borough Attorney are authorized to take all appropriate actions so as to implement this Resolution.

Public Hearings for Advertised Ordinances:

Ordinances 19-01 & 19-02

The Deputy Clerk read into the record:

The following ordinances published herewith were first read by title only on January 17, 2019 and posted on the bulletin board of the lobby of the municipal building.

ORDINANCE 19-01 – AN ORDINANCE TO AMEND CHAPTER 53 OF THE CODE OF THE BOROUGH OF ALLENDALE, "OFFICERS AND EMPLOYEES", TO FIX THE SALARIES, WAGES AND COMPENSATION OF THE OFFICERS AND EMPLOYEES OF THE BOROUGH OF ALLENDALE FOR THE YEAR 2019.

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ORDINANCE 19-02 – AN ORDINANCE TO AMEND, SUPPLEMENT AND REVISE THE CODE OF THE BOROUGH OF ALLENDALE, CHAPTER 100-3, BUILDING CONSTRUCTION FEES

Public Comments on Ordinance 19-01 and 19-02

No one came forward.

Motion by Councilwoman Homan, second by Councilwoman Wilczynski, that Ordinances 19-01 and 19-02 be passed on second and final reading and are hereby adopted and notice of same shall be published according to law.

On a roll call, the vote was recorded as follows:

Councilwoman Homan:	aye	Councilman Sasso:	aye
Councilman O’Connell:	aye	Councilman Strauch:	aye
Councilman O’Toole:	abstain	Councilwoman Wilczynski:	aye

(See Ordinance 19-01 & 19-02 attached and made a part hereof.)

Consent Agenda

- A. **19-73**/Approval of Bill List
- B. **19-74**/Covenant to Comply with Provisions of Internal Revenue Code of 1986 & Designate \$1,035,000 Bond Anticipation Note As “Qualified Tax-Exempt Obligation”
- C. **19-75**/Authorize Water Bill Adjustment – TJG Realty of Rockland
- D. **19-76**/Appoint Municipal Auditor – Lerch, Vinci and Higgins, LLP
- E. **19-77**/Authorize Refund – Overpayment of 2018 Taxes – State Board Judgment
- F. **19-78**/Authorize Proposal – Neglia Engineering Associates – Lighting Improvements MA-2018-West Allendale Streetscape
- G. **19-79**/Authorize Cancellation of Taxes – Disabled Veteran

Motion by Councilman Strauch, second by Councilman O’Connell, that the Consent Agenda be approved.

On a roll call, the vote on the Consent Agenda was recorded as follows:

Councilwoman Homan:	aye	Councilman Sasso:	aye
Councilman O’Connell:	aye	Councilman Strauch:	aye
Councilman O’Toole:	abstain	Councilwoman Wilczynski:	aye

All members present voting in favor, the Consent Agenda was approved.

Resolution 19-73

List of Bills

Now, Therefore, Be It Resolved by the Mayor and Council of the Borough of Allendale, County of Bergen, State of New Jersey, that it hereby approves the Bill List dated January 31, 2019 in the amounts of:

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Current Fund	\$3,031,853.53
Payroll Account	\$389,213.74
General Capital	\$34,338.35
Animal Fund	\$0.00
Grant Fund	\$0.00
COAH/Housing Trust	\$2,512.30
Improvement & Beautification	\$0.00
Unemployment Fund	\$0.00
Trust Fund	\$4,437.50
Water Operating	\$55,848.52
Water Capital	\$9,150.00
Total	\$3,527,353.94

Resolution 19-74

RESOLUTION OF THE BOROUGH COUNCIL OF THE BOROUGH OF ALLENDALE, IN THE COUNTY OF BERGEN, NEW JERSEY, COVENANTING TO COMPLY WITH THE PROVISIONS OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED, APPLICABLE TO THE EXCLUSION FROM GROSS INCOME FOR FEDERAL INCOME TAX PURPOSES OF INTEREST ON OBLIGATIONS ISSUED BY THE BOROUGH OF ALLENDALE AND AUTHORIZING THE MAYOR, BOROUGH CLERK, CHIEF FINANCIAL OFFICER AND OTHER BOROUGH OFFICIALS TO TAKE SUCH ACTION AS THEY MAY DEEM NECESSARY OR ADVISABLE TO EFFECT SUCH COMPLIANCE AND DESIGNATING A \$1,035,000 BOND ANTICIPATION NOTE, DATED JANUARY 25, 2019, PAYABLE JANUARY 24, 2020, AS A "QUALIFIED TAX-EXEMPT OBLIGATION" PURSUANT TO SECTION 265(b)(3) OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED.

WHEREAS, the Borough of Allendale, in the County of Bergen, New Jersey (the "Borough") from time to time issues bonds, notes and other obligations, the interest on which is excluded from gross income for Federal income tax purposes, and desires to take such action as may be necessary or advisable to establish and maintain such exclusion; and

WHEREAS, the Internal Revenue Code of 1986, as amended (the "Code"), contains provisions with respect to the exclusion from gross income for Federal income tax purposes of interest on obligations, including provisions, among others, which require issuers of tax-exempt obligations, such as the Borough to account for and rebate certain arbitrage earnings to the United States Treasury and to take other action to establish and maintain such Federal tax exclusion; and

WHEREAS, the Borough desires to designate a \$1,035,000 Bond Anticipation Note, dated January 25, 2019, payable January 24, 2020 (the "Note"), as a "qualified tax-exempt obligation" pursuant to Section 265(b)(3) of the Code;

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Allendale, in the County of Bergen, New Jersey, as follows:

SECTION 1. The Borough Council hereby covenants on behalf of the Borough, to the extent permitted by the Constitution and the laws of the State of New Jersey, to do and perform all acts and things permitted by law and necessary to assure that interest paid on bonds, notes or other

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obligations of the Borough (including the Note) be and remain excluded from gross income of the owners thereof for Federal income tax purposes pursuant to Section 103 of the Code.

SECTION 2. The Mayor, Borough Clerk, Chief Financial Officer and the other officials of the Borough are hereby authorized and directed to take such action, make such representations and give such assurances as they may deem necessary or advisable to effect compliance with the Code.

SECTION 3. The Note is hereby designated as a "qualified tax-exempt obligation" for the purpose of Section 265(b)(3) of the Code.

SECTION 4. It is hereby determined and stated that (1) said Note is not a "private activity bond" as defined in the Code and (2) the Borough and its subordinate entities, if any, do not reasonably anticipate issuing in excess of \$10 million of new money tax-exempt obligations (other than private activity bonds) during the calendar year 2019.

SECTION 5. It is further determined and stated that the Borough has not, as of the date hereof, issued any tax-exempt obligations (other than the Note) during the calendar year 2019.

SECTION 6. The Borough will, to the best of its ability, attempt to comply with respect to the limitations on issuance of tax-exempt obligations pursuant to Section 265(b)(3) of the Code; however, said Borough does not covenant to do so, and hereby expressly states that a covenant is not made hereby.

SECTION 7. The issuing officers of the Borough are hereby authorized to deliver a certified copy of this resolution to the original purchaser of the Note and to further provide such original purchaser with a certificate of obligations issued during the calendar year 2019 dated as of the date of delivery of the Note.

SECTION 8. This resolution shall take effect immediately upon its adoption.

Resolution 19-75

Water Adjustment

Whereas, the utility payer listed below has been found to have their utility bill reduced by the amount shown, and

Whereas, this adjustment is due to an estimated bill, incorrectly reported water usage or incorrect readings,

Now, Therefore, Be It Resolved by the Council of the Borough of Allendale that this adjustment be granted, with a credit, to the following utility bill payer:

Name	Account Number	Amount
TJG Realty of Rockland	3119803335801	\$151.59

Appointment of Borough Professional

Whereas, the Borough of Allendale requires the service of professionals for the calendar year 2019; and,

Whereas, it is contemplated that the temporary and permanent budgets will contain the necessary appropriations estimated to be reasonably required for each such professional service; and,

Whereas, the professional named herein will be required to execute a contract for the services to be rendered which shall set forth the compensation for such services therein; and,

Whereas, a Certification of availability of funds has been received from the Chief Financial Officer or that such funds will be encumbered by Purchase Order on an as-needed basis pursuant to the provisions of NJAC 5:30-5.4 et seq; and,

Whereas, in any instance where it is anticipated that the expenditure for each such professional service will exceed the sum of \$17,500 for said calendar year, the named professionals have completed, submitted and filed a Business Entity Certification Disclosure which certifies that the above named persons and/or entities have not made any reportable contributions to any political or candidate committee including (Republicans for Responsible Government, Allendale Republican Club, Allendale Democratic Club, Candidates for Allendale Municipal Government, Bergen County Democratic Organization, Bergen County Republican Organization) in the previous one (1) year, and that the contract will prohibit the above named professionals/business entities from making any reportable contributions through the term of the contract.

Now, Therefore, Be It Resolved by the Mayor and Council of the Borough of Allendale that the following appointment be and is hereby made for the year:

Be It Further Resolved that the contract is being awarded as a non-fair and open contract, pursuant to the provisions of NJSA 19:44A-20.5;

Be It Further Resolved that the Business Disclosure Entity Certification and the determination of value be placed on file with this Resolution.

Municipal Auditor

Lerch Vinci and Higgins, LLP

The compensation for the aforesaid position to be established by the salary ordinance or the contract for such services which shall be executed by the professional named herein; and,

Be It Further Resolved that the aforesaid appointment was made without competitive bidding under the provisions of NJSA 40A:11-5(1)(a) which excepts from competitive bidding Professional Services rendered by persons authorized by law to practice a recognized profession and whose practice is regulated by law; and,

Be It Further Resolved that the appropriate Borough Officials be and they are hereby authorized to execute contracts with the professional named herein for the services to be rendered; and,

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Be It Further Resolved that the compensation to be paid for the professional named herein shall not exceed the budget appropriation for such services unless properly ordained in accordance with law; and,

Be It Further Resolved that a copy of this resolution be filed with the Borough Clerk and made available for inspection and that a brief notice of the passage thereof be published in The Record within ten days of the passage as required by law.

Resolution 19-77

State Board Judgment

BE IT RESOLVED, by the Council of the Borough of Allendale that the Tax Collector is hereby authorized to issue the following overpayment check due to a State Board Judgment for the tax year 2018:

Block/Lot	Name	Amount
801/1.07	Valerie Hofer, Esq. Trust Account For Velli, Joseph & Laura 120 Lebbie Lane Fairless Hills, PA 19030	\$2,048.92

Resolution 19-78

WHEREAS, the Borough requires engineering services for Lighting Improvements MA-2018-West Allendale Avenue Streetscape; and

WHEREAS, Neglia Engineering Associates has submitted a revised proposal for such services dated November 16, 2018, which the Public Works Committee finds acceptable and which has been recommended to the Governing Body; and

WHEREAS, Neglia Engineering Associates is duly qualified and is available to perform such services; and

WHEREAS, the Chief Financial Officer has attached hereto a Certification pursuant to NJAC 5:30-5.4 that adequate funds are available to pay for the Contract;

NOW, THEREFORE, BE IT RESOLVED, by the Governing Body that it does hereby award a Contract to Neglia Engineering Associates of Lyndhurst, New Jersey in the amount not to exceed \$11,650.00; and

BE IT FURTHER RESOLVED, that the Mayor and Municipal Clerk are authorized to sign the proposal or an appropriate agreement to reflect these services; and

Resolution 19-79

Cancellation of Taxes

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WHEREAS, the applicant, Patricia E. Lorusso Block 2101 Lot 1.2004, applied and was approved for permanent and total disability through the Department of Veteran Affairs;

WHEREAS, the Municipal Tax Assessor had reviewed and approved the application as of January 31, 2019.

THEREFORE, BE IT RESOLVED, that the Tax Collector is hereby authorized to cancel real estate taxes assessed to the aforesaid property for a prorated amount of \$2,193.64 for 1st quarter February and March & 2nd quarter 2019 in the amount of \$3,290.45

Unfinished Business:

There was no unfinished business.

New Business:

There was no new business.

Council Committee Reports and Comments

This agenda item was addressed during the Work Session.

Mayor's Report:

Mayor Bernstein reported that he attended the VFW holiday party last Saturday, noting that Joe Chinnici, VFW Commander, did a wonderful job. He commented on how humbling it is to meet so many who gave a large part of their lives to serve the Country. He advised that a 92-year old attendee from Ramsey joined the Navy at 16 years old and did not receive his high school diploma from Ramsey High School. This veteran will be receiving his diploma this spring.

With respect to 220 and 230 West Crescent, Mayor Bernstein explained that they are still in the diligence period. During this time, the buyers are conducting inspections and the attorneys are drafting, reviewing and negotiating the ancillary agreements referenced in the Agreement of Purchase.

Councilwoman Wilczynski advised that, thus far, the preliminary reports have been quite good.

Mayor Bernstein thanked Ron Kistner, Administrative Officer/Director of Operations, for working with Hampshire to have inspections completed. He also advised that a meeting of the Vision Committee, commissioned by Mayor Emeritus White, is anticipated to discuss future plans once the due diligence period is complete.

Staff Reports:

Ray Wiss, Municipal Attorney, reported that he has met with several members of the governing body over the past few weeks to discuss matters pertaining to their respective committees as well as Ron Kistner on items that he is addressing. He commented that a lot of time has been spent on 220 and 230 West Crescent Avenue as this project is very large in scope. Time has also been spent with the Borough's COAH Planner on implementation and all is proceeding well. The judgment was received confirming the Borough's compliance approval from Judge Padovano. Borough Attorney Wiss

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advised that he has also been assisting the Clerk's office in responding to OPRA requests as they have been inundated with requests from a multitude of areas.

Michelle Ryan, Deputy Municipal Clerk, stated that 41 OPRA requests have been received this month. As reported at the last meeting, GovPilot went live with Pet Licensing, OPRA requests, and Report a Concern as of January 4th. The Construction Module will be live as of tomorrow and Compost Permits, Red Barn/West Beach/Field Use Permits, and the No Knock Registry will be up and running in the near future. Approximately 300 dog licenses have been processed through GovPilot to date. Today is the deadline to register a pet without incurring a \$5 late fee. Reminders have been sent to those who have not yet registered.

Councilwoman Homan inquired whether OPRA requests are currently being received through GovPilot.

Deputy Clerk Ryan confirmed that requests are able to be submitted through this program.

Borough Attorney Wiss commented that, although the number 41 is significant, each request can have multiple parts which call for the Clerk's office to interface with other departments to obtain the requested documents. He noted that OPRA is just one aspect of the many Statutory responsibilities of the Clerk's office. He further noted that, once obtained, the documents may require legal review. Mayor Bernstein commented that there are legitimate uses for OPRA as well as questionable uses. In either case, he advised that responding to these requests requires Borough dollars and time in order to comply which could be spent completing other tasks that would better serve the Borough.

Councilwoman Wilczynski noted that requests with multiple parts are paralyzing for smaller municipalities as there are strict deadlines, causing these requests to take precedence.

Borough Attorney Wiss explained that, while there are extension mechanisms within the Statute, there a 7-day compliance period. As such, he noted that other business must be deflected to attend to these requests on an immediate basis in order to avoid sanctions for noncompliance. He advised that there is a cottage industry within the bar to bring claims against municipalities for noncompliance as counsel fees are awarded against the municipality for noncompliance. He expressed that it is for this reason that responses to OPRA requests cannot be taken lightly

Ron Kistner, Administrative Officer/Director of Operations, reported that he and Mike Vreeland, Borough Engineer, met with the Bergen County Engineers yesterday to discuss the drainage issues on Franklin Turnpike. He advised that the Borough will be installing drainage from Rohslers to Homewood, noting that the Borough will be absorbing the cost for the installation of sidewalks and the County will be paying the cost of the drainage and curbing installation. He noted that these improvements will eliminate the drainage issues. A shared service agreement will be drafted within the next 30 days. The Borough will be handling the project and will receive reimbursement from the County for their portion of the costs. Mr. Kistner expressed that he anticipates completing this project over the summer and it is hoped that this project can be piggybacked with other paving projects in the Borough to help save money. He commented that Mayor White deserves most of the credit for this project as she fought hard to get it done.

Alissa Mayer, CFO, announced that tax bills are due tomorrow, and as February 10th falls on a Sunday, the grace period will end on February 11th. With respect to estimated water bills, she urged residents to call right away and noted that, most times, the battery simply needs replacement.

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Mayor Bernstein welcomed Councilman O'Toole onto the governing body and opened the floor to him for comments.

Councilman O'Toole thanked the members of the governing body for the vote of confidence and expressed that he will do his best to live up to the accomplishments of the Council in the past. He thanked his family for their support as well as Mike Sirico and Susanne Lovisolo.

Public Comment on any issue:

Adam Soell, 12 Beechwood Road, advised that he is in 7th grade and has been a Boy Scout for about one and a half years. He is attending the meeting tonight as part of his Citizenship in the Community badge.

Adjournment:

There being no further business to come before the Mayor and Council, on a motion by Councilman Strauch, second by Councilman O'Connell, and unanimously carried, to adjourn this meeting. The meeting was adjourned at 8:30 p.m.

Respectfully submitted,

Anne Dodd, RMC
Municipal Clerk