

**MINUTES OF SPECIAL MEETING OF THE  
MAYOR AND COUNCIL  
OF THE BOROUGH OF SUSSEX  
HELD AT THE MUNICIPAL BUILDING  
2 MAIN STREET, SUSSEX, NJ  
DECEMBER 28, 2017**

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Mayor Little called the meeting to order and requested the clerk to call the roll. Upon roll call, the following members of the Governing Body were present: Mr. Walter Cleary, III, Mr. Frank Dykstra, Mr. Robert Holowach, Mrs. Linda Masson, Mr. Edward Meyer, Mr. Mario Poggi, and Mayor Katherine Little.

Absent: None

Also present: Mr. Michael Restel, Municipal Administrator, Borough Attorney Mr. Frank McGovern, Esq. of McGovern and Roseman, P.A., and Mrs. Antoinette Smith, Acting Municipal Clerk.

Mayor Little led the assembly in the flag salute and requested a moment of silence.

Mayor Little stated "This meeting is being held in compliance with the provisions of the Open Public Meetings Act, N.J.S.A. 10:4-6 et seq. It has been properly advertised and certified by the Clerk."

**APPROVAL OF AGENDA**

Mr. Holowach made a motion to approve the agenda for December 28, 2017 as submitted. Motion seconded by Mr. Meyer.

At this time the following statement was read by Attorney Frank McGovern:

*You will recall that the Mayor and Council met last week, on December 19, 2017. This was for a special meeting that was noticed and scheduled to begin at 6:30 pm and for a regular meeting scheduled in the ordinary course for 7:30 pm.*

*Within a couple days afterwards, it was observed that, although the special meeting started at the scheduled time, it was not thereafter officially adjourned at the conclusion of its business; and a regular meeting was not thereafter officially announced. There was an adjournment of the meeting at the conclusion of all business later that evening.*

*I confirmed with the Borough Clerk that the special meeting was timely advertised. The Clerk reviewed the record and observed that the Council did not act on regular-meeting resolutions and ordinance matters listed on the agenda until after the regular-meeting start time of 7:30 pm. In other words, the special and regular meetings were essentially merged with no official split between the two. I do not believe any genuine public interest and rights in terms of notice and ability for the public to appear and participate were adversely affected.*

*Regardless, for the purpose of protecting the Council's actions from a potential claim of noncompliance with the Open Public Meetings Act, there is a procedure available whereby the matters that were decided on can be considered de novo at this meeting. De novo means "as though you were considering it for the first time." This does not mean you have to rehash or conduct new discussions. If you are confident in your decision tonight and feel it is not necessary to discuss the matter, you can vote on the matter without discussion after a motion and second are made. The adoption of such resolutions tonight will then be effective nunc pro tunc, meaning retroactive to December 19.*

*Not included in the list of matters for such consideration tonight is the parking ordinance that was passed on final reading on December 19. As with the other matters decided on December 19, that ordinance remains in effect. If someone were to question the adoption of that ordinance based on possible technical noncompliance with the Open Public Meetings Act, that person can file an action with the Court within 45 days to try to set the ordinance aside. But meanwhile it remains in effect. If no action is brought within the 45 day period, the concern goes away. If someone does bring such an action, this body can reintroduce the ordinance and adopt it next year, if it so chooses.*

*So tonight you will see a number of items on the agenda which were previously decided by you. The special meeting notice for tonight's meeting includes consideration of these matters.*

Upon roll call vote:

Ayes: Cleary, Dykstra, Holowach, Masson, Meyer, Poggi

Nays: None

Abstentions: None

Absent: None

### **OPEN PUBLIC SESSION #1**

Mr. Dykstra made a motion to open the meeting to the public for any questions or comments concerning items on the agenda for which no public discussion is provided. All comments should be directed to the Mayor and are limited to 10 minutes. Motion seconded by Mrs. Masson.

All were in favor.

Megan Durham, 2 Clove Avenue, Sussex. Ms. Durham had concerns that were not included in agenda items.

There being no one else present who wished to address the Governing Body, Mrs. Masson made a motion to close the meeting to the public. Motion seconded by Mr. Meyer.

All were in favor.

### **OLD BUSINESS**

There was no old business to discuss at this time.

### **Approval of Meeting Minutes**

Mrs. Masson made a motion to approve the meeting minutes of the Regular Meeting and Executive Session held on December 5, 2017. Motion seconded by Mr. Holowach. *(Resolution effective December 19, 2017.)*

Upon roll call vote:

Ayes: Cleary, Dykstra, Holowach, Masson, Poggi

Nays: None

Abstentions: Meyer

Absent: None

### **Resolution 2017-166R- Authorizing Contract for Water Meter Hosting Software Services**

Mr. Holowach made a motion to adopt Resolution 2017-166R authorizing award of contract with Neptune Technology Group Inc., 1600 Alabama Highway 229, Tallassee, AL 36078, for the provision of hosting software services in conjunction with the Borough's upgrade of water meters for a cost not to exceed \$9,000 for one year. Motion seconded by Mr. Dykstra. *(Resolution effective December 19, 2017.)*

Upon roll call vote:

Ayes: Cleary, Dykstra, Holowach, Masson, Meyer, Poggi

Nays: None

Abstentions: None

Absent: None

### **Resolution 2017-162R - Resolution Authorizing Award of Contract to J. J. Rich for the Demolition of 1 East Main Street, Sussex**

Mr. Dykstra made a motion to adopt Resolution 2017-162R authorizing award of contract to J. J. Rich for the Demolition of 1 East Main Street, Sussex at a cost not to exceed \$33,360.00. Motion seconded by Mr. Holowach. *(Resolution effective December 19, 2017.)*

Upon roll call vote:

Ayes: Cleary, Dykstra, Holowach, Masson, Meyer, Poggi

Nays: None

Abstentions: None

Absent: None

**Resolution 2017-163R – Engineering Services for the Harrison Street Parking Lot Redesign, Phase I**

Mr. Holowach made a motion to adopt Resolution 2017-163R approving the expenditure of not more than \$7,500.00 to the Sussex Borough Planning Board Engineering firm, Guerin and Vreeland Engineering, Inc. for engineering services for phase I of the redesign of the Harrison Street Parking Lot on behalf of Sussex Borough. Motion seconded by Mr. Poggi.

Upon roll call vote:

Ayes: None

Nays: Cleary, Dykstra, Holowach, Masson, Meyer, Poggi

Abstentions: None

Absent: None

Motion fails.

**Resolution 2017-164R – Resolution Authorizing Refund**

Mr. Dykstra made a motion to adopt Resolution 2017-164R – authorizing the refund of \$511.43 to Alphonse and Melinda Grillo, for an overpayment of the 4<sup>th</sup> quarter of 2017 taxes for Block 203 Lot 2.01. Motion seconded by Mr. Poggi. (*Resolution effective December 19, 2017.*)

Upon roll call vote:

Ayes: Cleary, Dykstra, Holowach, Masson, Meyer, Poggi

Nays: None

Abstentions: None

Absent: None

**Approval of Social Affair Permit for Sussex Fire Department**

Mr. Dykstra made a motion to approve a social affair permit for the Sussex Fire Department, event to be held at the Sussex Fire Department on February 24, 2018. Motion seconded by Mrs. Masson. (*Resolution effective December 19, 2017.*)

Upon roll call vote:

Ayes: Cleary, Dykstra, Holowach, Masson, Meyer, Poggi

Nays: None

Abstentions: None

Absent: None

**Resolution 2017-169R - Amending Ordinance 2017-15 Introduced on December 5, 2017 and Scheduled for Final Reading on December 19, 2017.**

Mr. Dykstra made a motion to adopt Resolution 2017-169R Amending Ordinance 2017-15 introduced on December 5, 2017 and scheduled for Final Reading on December 19, 2017. Motion seconded by Mr. Holowach. (*Resolution effective December 19, 2017.*)

Upon roll call vote:

Ayes: Cleary, Dykstra, Holowach, Masson, Meyer, Poggi

Nays: None

Abstentions: None

Absent: None

**Resolution 2017-168R – Transfer of Funds**

Mr. Poggi made a motion to adopt Resolution 2017- 168R approving the transfer adjustments to the 2017 municipal budget appropriations. Motion seconded by Mr. Dykstra. (*Resolution effective December 19, 2017.*)

Upon roll call vote:

Ayes: Cleary, Dykstra, Holowach, Masson, Meyer, Poggi

Nays: None

Abstentions: None

Absent: None

**Resolution 2017-170R – Special Meeting**

Mr. Dykstra made a motion to adopt Resolution 2017-170R to hold a Special Meeting of the Governing Body of the Borough of Sussex, County of Sussex, State of New Jersey, to be held on Thursday, December 28, 2017, 7:30pm at the Sussex Municipal Building, 2 Main Street, Sussex NJ 07461. Motion seconded by Mr. Holowach. (*Resolution effective December 19, 2017.*)

Upon roll call vote:

Ayes: Cleary, Dykstra, Holowach, Masson, Meyer, Poggi

Nays: None

Abstentions: None

Absent: None

**EXECUTIVE SESSION – IF DEEMED NECESSARY BY THE MAYOR & COUNCIL**

In accordance with the provisions of the Open Public Meetings Act, Mr. Meyer made a motion to adjourn into closed executive session to discuss **Contract Negotiations**. Motion seconded by Mr. Poggi.

Upon roll call vote:

Ayes: None

Nays: Cleary, Dykstra, Holowach, Masson, Meyer, Poggi

Abstentions: None

Absent: None

The motion failed, therefore the Mayor & Council **did not** adjourn into Executive Session.

**NEW BUSINESS (Continued):**

**Resolution 2017-167R - Authorizing Shared Service Agreement with Wantage Township pertaining to Redevelopment of certain properties by Sussex/Wantage 285 urban renewal, LLC**

Mr. Dykstra made a motion to table consideration of the adoption of Resolution 2017-167R authorizing shared service agreement with Wantage Township pertaining to redevelopment of certain properties by Sussex/Wantage 285 Urban Renewal, LLC to Special Meeting of the Mayor and Council on December 28, 2017. Motion seconded by Mr. Holowach. (*Resolution effective December 19, 2017.*)

Upon roll call vote:

Ayes: Dykstra, Holowach, Meyer, Poggi

Nays: Cleary, Masson

Abstentions: None

Absent: None

Mr. Holowach made a motion to adopt Resolution 2017-167R authorizing shared service agreement with Wantage Township pertaining to redevelopment of certain properties by Sussex/Wantage 285 Urban Renewal, LLC. Motion seconded by Mr. Poggi.

Upon roll call vote:

Ayes: Dykstra, Holowach, Meyer, Poggi

Nays: Cleary, Masson

Abstentions: None

Absent: None

**Resolution 2017-165R- Approving an Application of Sussex/Wantage 285 Urban Renewal, LLC for a Financial Agreement with respect to Block 104, Lot 1.01, Block 105, Lot 1.03 and Block 106, Lot 1.02**

Mr. Holowach made a motion to table Resolution 2017-165R- approving an application of Sussex/Wantage 285 Urban Renewal, LLC for a Financial Agreement with respect to Block 104, Lot 1.01, Block 105, Lot 1.03 and Block 106, Lot 1.02 until a Special Meeting of the Mayor and Council on December 28, 2017. Motion seconded by Mr. Poggi. (*Resolution effective December 19, 2017.*)

Upon roll call vote:

Ayes: Cleary, Dykstra, Holowach, Masson, Meyer, Poggi

Nays: None

Abstentions: None

Absent: None

Mr. Holowach made a motion to adopt Resolution 2017-165R- approving an application of Sussex/Wantage 285 Urban Renewal, LLC for a Financial Agreement with respect to Block 104, Lot 1.01, Block 105, Lot 1.03 and Block 106, Lot 1.02. Motion seconded by Mr. Poggi.

Upon roll call vote:

Ayes: Cleary, Dykstra, Holowach, Masson, Meyer, Poggi

Nays: None

Abstentions: None

Absent: None

**Adoption of Ordinance 2017-15 - An Ordinance Approving and authorizing the execution of a Financial Agreement with respect to Block 104, Lot 1.01, Block 105, Lot 1.03 and Block 106, Lot 1.02 in the Borough of Sussex**

Mr. Dykstra made a motion to table the Final Reading of Ordinance 2017-15 - An Ordinance Approving and authorizing the execution of a Financial Agreement with respect to Block 104, Lot 1.01, Block 105, Lot 1.03 and Block 106, Lot 1.02 in the Borough of Sussex until a Special Meeting of the Mayor and Council on December 28, 2017. Motion seconded by Mr. Poggi. (*Resolution effective December 19, 2017.*)

Upon roll call vote:

Ayes: Cleary, Dykstra, Holowach, Masson, Meyer, Poggi

Nays: None

Abstentions: None

Absent: None

Mr. Meyer made a motion to adopt Ordinance 2017-15 - An Ordinance Approving and authorizing the execution of a Financial Agreement with respect to Block 104, Lot 1.01, Block 105, Lot 1.03 and Block 106, Lot 1.02 in the Borough of Sussex. Motion seconded by Mr. Holowach.

**Mayor Little opened the meeting to the public for any questions or concerns regarding Ordinance #2017-15.**

Upon roll call vote:

Ayes: Cleary, Dykstra, Holowach, Masson, Meyer, Poggi

Nays: None

Abstentions: None

Absent: None

**OPEN PUBLIC SESSION #2**

Mrs. Masson made a motion to open the meeting to the public for any questions or comments concerning the good and welfare of the Borough. All comments should be directed to the Mayor and are limited to 10 minutes to discuss. Motion seconded by Mr. Poggi.

All were in favor.

There being no one present who wished to address the Governing Body, Mr. Poggi made a motion to close the meeting to the public. Motion seconded by Mr. Meyer.

All were in favor.

**ADJOURNMENT**

There being no further items for discussion by the Mayor and Council, Mrs. Masson made a motion to adjourn the meeting. Motion seconded by Mr. Meyer.

All were in favor.

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Katherine Little, Mayor

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Antoinette Smith, Acting Clerk

Date Approved: January 18, 2018