

**ALPINE MAYOR AND COUNCIL
REGULAR MEETING
Wednesday, November 25, 2019 @ 7:30 P.M.
Borough Hall - 100 Church Street**

CALL TO ORDER/ PUBLIC ANNOUNCEMENT/PLEDGE OF ALLEGIANCE

The Mayor and Council, Borough of Alpine, convened for this Regular Meeting on Wednesday, November 25, 2019 at 7:30 P.M. in the Alpine Borough Hall. The Public Announcement was read and the Pledge of Allegiance recited.

In accordance with the provisions of the New Jersey Open Public Meetings Law, the notice of this Regular Meeting held Wednesday, November 25, 2019 has met the requirements of the law by being published in The Record as part of the Annual Notice, posted on the bulletin board of the lobby in the Borough Hall and a copy filed in the office of the Borough Clerk. This meeting was recorded in its entirety.

ROLL CALL

| | | | |
|------------------------------|---------|----------------------------------|---------|
| Paul Tomasko, Mayor | Present | Vicki Frankel, Council President | Present |
| Michael Cacouris, Councilman | Present | Gayle Gerstein, Councilwoman | Present |
| John Halbreich, Councilman | Present | Laurence Shadek, Councilman | Present |
| Arthur Frankel, Councilman | Present | | |

Staff Present on Dais: Borough Attorney Russ Huntington, Borough Engineer Perry Frenzel, Municipal Clerk Stephanie Wehmann

Mayor Tomasko welcomed Steven Cacouris along with Steven and Elizabeth Kambour of Fort Lee. As part of his pursuit of the rank of Eagle Scout in the Boy Scouts of America Steven interviewed Mayor Tomasko prior to this meeting.

PUBLIC COMMENTS None

REPORT OF THE FINANCE COMMITTEE A copy is on file in the Borough Clerk's office.

Bank Of New Jersey Current Operating Acct \$4,612,000.74

Resolution #190: 11'2019: Approval of Bills and Claims

OFFERED BY: Councilman Cacouris **SECONDED BY:** Councilwoman Frankel at the regular meeting of the Alpine Mayor and Council held on Wednesday, November 25, 2019 to approve the bills and claims, a copy of which are appended.

Vote: Ayes: A. Frankel V. Frankel, Cacouris, Gerstein, Halbreich, Shadek **MOTION APPROVED**

Resolution #191:11'2019: Return of Bonds and Escrow

OFFERED BY: Councilman Cacouris **SECONDED BY:** Councilwoman Frankel at the regular meeting of the Alpine Mayor and Council held on Wednesday, November 25, 2019 to approve the return of the following bonds and escrow subject to review and approval by the Borough Engineer.

| Name | Bl/Lot | Type | Amount |
|-----------------------------------|----------|-----------------------|--------------------|
| Drut, Oleg | 79.01/3 | Performance Bond | \$35,400.00 |
| | | Revegetation Bond | 10,350.00 |
| | | Engineering Escrow | 776.75 |
| | | | \$46,626.75 |
| Camdrew Productions | | Film Permit Escrow | \$4,746.00 |
| Hillcorp, Inc. | 55/20&21 | ZBA Escrow | \$1,044.15 |
| Garabet, Mr. & Mrs. | 47/1 | ZBA Escrow | \$244.35 |
| Livingston Properties (Mourkakos) | 49.01/1 | ZBA Escrow | \$26.50 |
| Minoyan, Jacques | 60/10 | ZBA Escrow | \$1,229.35 |
| Alpine Country Club | 55/3 | Planning Board Escrow | \$240.55 |
| Perez, Ramon & Mirna | 73/10 | Planning Board Escrow | \$1,158.45 |

Vote: Ayes: A. Frankel V. Frankel, Cacouris, Gerstein, Halbreich, Shadek **MOTION APPROVED**

Tax Assessor's Report. On file.

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The Mayor wished to note that, in consultation with Councilman Cacouris the Borough's Bond Anticipation Note was turned at a better rate of 1.43% versus 2.45% last year and the amount was reduced by \$200,000.00.

MAYOR'S REPORT The Mayor reported on the following:

- Attended Annual NJ League of Municipalities convention along with the Borough Clerk, CFO and Construction Code Official. They attended classes, viewed exhibits and it is time well spent.
- Attended presentation of draft Bergen County Parks Master Plan with Environmental Chairwoman Lorraine Mattes. The draft represents three years of work, totals 117 pages. The report mentions the Alpine Reserve North (the former Lamont tract sold by the Scouts, in the mid-1990's when he was a Councilman, to Alpine, Rockleigh and the County. It also mentions the County owned tract along Ruckman Road. The report is available for review.
- Congratulations to Councilwoman Gerstein and Councilman Halbreich on their re-election.
- Read a note of thanks from Richard Glazer honored as Volunteer of the Year at last month's meeting.

REPORTS OF THE STANDING COMMITTEES

Administration Department No report.

Building Department Councilman Halbreich reported main statistics: 72 scheduled inspections, 2 fence permits, 8 tree permits, 4 soil moving applications, and 2 zoning review applications. Balance of report on file in the Clerk's office.

Department of Public Works Councilman Frankel advised a new HVAC system was successfully installed for the courtroom / council chambers.

Fire Department Councilwoman Gerstein advised statistics are available. Santa will be at the Fire House on December 7th from 10AM – 12 noon.

Police Department Councilwoman Frankel reported 24 summonses were issued in September, 9 motor vehicle accidents with 4 injuries. The rest of the report is on file.

Resolution #192 :11'2019: Accepting the Reports of the Standing Committees

OFFERED BY: Councilwoman Frankel **SECONDED BY:** Councilwoman Gerstein

at the regular meeting of the Alpine Mayor and Council held on Wednesday, November 25, 2019 to accept the reports of the Standing Committees.

Vote: Ayes: A. Frankel V. Frankel, Cacouris, Gerstein, Halbreich, Shaddek

MOTION APPROVED

BOARD OF EDUCATION LIAISON'S REPORT Councilman Shaddek reported:

- The Board of Education is proud to advise the State Proficiency Testing results: 2019 Alpine School ranks #8 in elementary K-5 out of 719 districts in the state and #2 in Bergen County. They rank #5 for public middle school and #1 in Bergen County. These results are posted on their website alpineschool.org.
- The Board also advises there are seven tuition paying students at \$16,900 a piece = \$118,000. Two more families have toured the school. He commends the principle, Board and parents for their contribution to the strength of the school and the interest generated.

- On December 5 at 6 PM Grades 6 and 7 will show the world the businesses they own, setting up their product displays and preparing their sales pitch. The Fall Concert is December 12 at 6 PM.

Councilwoman Gerstein asked how many children currently attend Alpine School. Councilman Shaddek advised there are approximately 160 students in grades K-8. Mayor Tomasko recalled Councilman Shaddek was President of the Board of Education for over ten years. Current chair is Phil Simotas. Councilman Shaddek noted the school is an important asset.

BOROUGH ATTORNEY'S REPORT No report

BOROUGH ENGINEER'S REPORT Mr. Frenzel distributed his report which is on file.

UNFINISHED BUSINESS

Ordinance # 790 Amend Ch. 205 Trees

Public Hearing: Opened to the public for comments and being none closed.

Resolution #193:11'2019: Adoption of Ordinance #790

OFFERED BY: Councilwoman Frankel **SECONDED BY:** Councilwoman Gerstein at a regular meeting of the Mayor and Council of the Borough of Alpine, held on Wednesday, November 25, 2019

BE IT RESOLVED, by the Mayor and Council of the Borough of Alpine, in the County of Bergen and State of New Jersey, that an Ordinance entitled:

AN ORDINANCE AMENDING CHAPTER 205 OF THE MUNICIPAL CODE OF THE BOROUGH OF ALPINE ENTITLED "TREES"

does hereby pass its second and final reading and is hereby adopted and Notice of same be published according to law.

Vote: Ayes: A. Frankel V. Frankel, Cacouris, Gerstein, Halbreich, Shaddek

MOTION APPROVED

(A copy of this Ordinance is appended to these minutes)

NEW BUSINESS

CONSENT AGENDA RESOLUTIONS Resolutions #194:11'2019 - #196:11'2019

1. Resolution #194:11'2019: Approval of Minutes Regular Meeting October 23, 2019

OFFERED BY: Councilwoman Frankel **SECONDED BY:** Councilman Gerstein at a regular meeting of the Mayor and Council of the Borough of Alpine held on Monday, November 25, 2019 to approve the minutes of the Regular Meeting October 23, 2019.

Vote: Ayes: A. Frankel V. Frankel, Cacouris, Gerstein, Halbreich, Shaddek

MOTION APPROVED

2. Resolution #195:11'2019: Authorizing the Execution of an Interlocal Agreement for the Maintenance and Repair of Vehicles By and Between the Borough of Paramus and the Alpine Fire Department

OFFERED BY: Councilwoman Frankel **SECONDED BY:** Councilman Gerstein at a regular meeting of the Mayor and Council of the Borough of Alpine held on Wednesday, November 25, 2019

WHEREAS, the Borough of Paramus and the Borough of Alpine seek to enter into an Interlocal Agreement wherein the Borough of Paramus will provide labor and maintenance services on Borough of Alpine Fire Department vehicles; and

WHEREAS, both of the parties to such an Agreement are authorized by law to enter into an agreement with one another to provide jointly for any lawful service to and for the residents of the respective municipalities pursuant to the provisions of the "Interlocal Services Act" N.J.S.A. 40:8A-1 et seq.; and

WHEREAS, the governing bodies of the Borough of Paramus and the Borough of Alpine recognize that the implementation of an Interlocal Agreement to provide labor and maintenance services at a cost as set forth in the agreement attached hereto is in the best interest of the taxpayers of the respective municipalities;

NOW, THEREFORE, BE IT RESOLVED by the Council of the Borough of Alpine that the Mayor and Borough Clerk are authorized to execute an Interlocal Services Agreement with the Borough of Paramus subject to the approval of the Alpine Borough Attorney.

BE IT FURTHER RESOLVED that the Agreement shall commence on January 1, 2020 and end on December 31, 2020.

BE IT FURTHER RESOLVED that the Agreement shall take effect upon the execution of same and adoption of Resolutions by both parties as provided by law.

BE IT FURTHER RESOLVED that a copy of the Agreement be maintained on file and open to public inspection at the office of the Borough Clerk.

Vote: Ayes: A. Frankel V. Frankel, Cacouris, Gerstein, Halbreich, Shaddek

MOTION APPROVED

3. Resolution #196:11'2019 Calling for Study Commission to Review the Open Public Records Act

OFFERED BY: Councilwoman Frankel **SECONDED BY:** Councilman Gerstein

at this regular meeting of the Mayor and Council of the Borough of Alpine held on Wednesday, November 25, 2019.

WHEREAS, the Borough of Alpine strongly believes in and supports open transparent government, and that citizens and residents have the right to be informed about the workings of government in order to best participate in a democracy; and

WHEREAS, on January 8, 2002 then Acting Governor DiFrancesco signed into law the Open Public Records Act (OPRA) which mandates that government records shall be available, with limited exceptions, for public access and simplifying the procedures for requesting such specific records; and

WHEREAS, the intent of the law was to provide the public with easy access to government records with an uncomplicated process for obtaining the records and eliminating bureaucratic red tape; and

WHEREAS, over the course of 18 years OPRA has been a positive light, but it has also been fraught with abuse and misuse, and has become an unanticipated financial cost to the taxpayers of New Jersey; and

WHEREAS, the Borough of Alpine has labored under a well-intended law that has spiraled out of control, due to the volume and nature of requests, the cost to taxpayers in responding to the requests, and the potential liability in having to pay disproportionate prevailing party attorney's fees should the requests turn into litigated matters, as well as the liability in determining which documents shall be released, with or without redaction, while attempting to maintain individual privacy;

WHEREAS, it is not only the volume of OPRA requests that challenge our resources, but it is also the cost associated with reviewing, retrieving, and processing the OPRA request(s) by public entity personnel and counsel and possibly defending our action(s) before the Government Records Council or in Superior Court; and

WHEREAS, the Borough of Alpine received and responded to 277 OPRA requests in 2017, 348 OPRA requests in 2018, and has received and responded to 273 OPRA requests as of September 1, 2019; and

WHEREAS, the Borough of Alpine municipal staff has spent an average of approximately 1.5 hours in response time per OPRA request received. However, response time spent can range from 1 hour to 50 hours per request; and

WHEREAS, due to the often-conflicting case law and Government Record Council decisions, as well as the unique characteristics of OPRA request, the Borough of Alpine must often times rely on the municipal attorney to review certain OPRA requests, resulting in additional fees; and

These minutes have been approved by the Mayor & Council.

WHEREAS, with limited exceptions OPRA has not been amended to address the clear and apparent advancement in technology that has changed the way government records are created, stored, and/or transmitted; the various interpretive decisions; privacy concerns; abuse for commercial gain; and/or the ever-increasing cost to taxpayers; and

WHEREAS, as the current law approaches its twentieth (20th) anniversary it has outgrown its original intended use and has become ripe for comprehensive review and reform;

NOW, THEREFORE BE IT RESOLVED that the Mayor and Council of the Borough of Alpine appeals to the legislature to form a Commission comprised of Mayors, Municipal Clerks, Municipal Managers, Attorneys, Police Chiefs, open government advocates, privacy experts, members of the media, citizens and other appropriate stakeholders, to review and examine the effects of OPRA on local government and the needs to be fulfilled by the law, and use the Commission’s findings to perform a comprehensive reform of OPRA; and

BE IT FURTHER RESOLVED, that copies of this resolution be forwarded to Assemblyman Gordon M. Johnson, Assemblywoman Valerie Vainieri Huttle, Senator Loretta L. Weinberg, Assembly Speaker Craig Coughlin, Senate President Stephen Sweeney, Executive Director of the Government Records Council, the Governor of the State of New Jersey, the Municipal Clerks Association of New Jersey and New Jersey State League of Municipalities.

Vote: Ayes: A. Frankel V. Frankel, Cacouris, Gerstein, Halbreich, Shadek

MOTION APPROVED

B) Governing Body Acknowledgment of Best Practices Inventory

The Best Practices Inventory was certified by the Chief Administrative and Chief Financial Officers and submitted October 28, 2019 prior to the October 20, 2019 deadline. The Mayor met with Borough Officials on prior to submission to review the BPI questions and responses. This year’s inventory reflected an expanded focus with a total of 84 questions, including 31 unscored survey questions. At the time of submission there was an inventory score of 42. This score should result in no penalty or withholding of Property Tax relief (CMPTRA) and Energy Tax Receipts (ETR) based on the rubric provided in Local Finance Notice 2019-12. The entire report with questions and answers is available for review.

COMMUNICATIONS: WRITTEN AND ORAL

Mayor Tomasko noted residential development utilizing blasting came under scrutiny. The Borough Attorney will review the ordinance with a view to 1) ensuring the company that does this work must place their certificate of insurance to the Borough Clerk so it is available to residents and 2) providing more advance notice than was provided in this instance. Councilman Cacouris thanked the Mayor for his attention to this matter.

Resolution #197:11’2019 EXECUTIVE SESSION: A Resolution providing for a Meeting Not Open to the Public in Accordance with the Provisions of the New Jersey Open Public Meetings Act, N.J.S.A. 10:4-12.

OFFERED BY: Councilwoman Gerstein **SECONDED BY:** Councilwoman Frankel

at a regular meeting of the Mayor and Council of the Borough of Alpine held on Monday, November 25, 2019

WHEREAS, the Mayor and Council of the Borough of Alpine is subject to certain requirements of the *Open Public Meetings Act*, N.J.S.A. 10:4-6, *et seq.*; and

WHEREAS, the *Open Public Meetings Act*, N.J.S.A. 10:4-12, provides that an Executive Session, not open to the public, may be held for certain specified purposes when authorized by Resolution; and

WHEREAS, it is necessary for the Mayor and Council of the Borough of Alpine to discuss in a session not open to the public certain matters relating to the item or items authorized by N.J.S.A. 10:4-12b subsection designated below:

(b)(7) Matter related to pending litigation and attorney-client privilege

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the Borough of Alpine, assembled in public session on Monday, November 25, 2019, that an Executive Session closed to the public shall be held for the discussion of matters relating to the specific items designated above; and

BE IT FURTHER RESOLVED, that the deliberations conducted in closed session may be disclosed to the public upon the determination of the Borough Council that the public interest will no longer be served by such confidentiality.

Vote: Ayes: A. Frankel V. Frankel, Cacouris, Gerstein, Halbreich, Shadek

MOTION APPROVED

Executive Session began at 7:47 p.m., the public portion reconvened at 8:14 p.m. and immediately adjourned.

ADJOURNMENT

OFFERED BY: Councilwoman Frankel **SECONDED BY:** Councilman Frankel

and approved by all to adjourn the regular meeting of the Mayor and Council of the Borough of Alpine, held on Wednesday November 25, 2019 at 8:14 P.M.

Respectfully submitted,
Stephanie Wehmann, Municipal Clerk

BOROUGH OF ALPINE
ORDINANCE NO. 790
AN ORDINANCE AMENDING CHAPTER 205 OF THE MUNICIPAL CODE OF THE BOROUGH OF ALPINE
ENTITLED "TREES"

BE IT ORDAINED by the Mayor and Council of the Borough of Alpine, Bergen County, New Jersey that Chapter 205 of the Municipal Code of the Borough of Alpine entitled "Trees" be amended as follows:

1. Section 205-1 E (2) shall be deleted in its entirety and replaced with the following:

(2) Replacement trees.

(a) All regulated trees, including those shown or noted to be part of removal operations as well as those outside of removal operations that are removed, destroyed, or severely damaged, shall be replaced except as provided in Subsection E(4) below. Replacement shall be made in accordance with the following restoration formula:

| Caliper of tree removed (inches) | Number required for replacement |
|----------------------------------|---------------------------------|
| 6 to no more than 12 | 2 |
| 12 to no more than 18 | 3 |
| 18 to no more than 30 | 4 |
| 30 or greater | 5 |

(b) The caliper of trees with multiple trunks at a height of four and one-half feet above the ground shall be calculated by multiplying the caliper of the largest trunk at such height by 1.5.

(c) Of any **deciduous trees** removed, regardless of caliper, a minimum of fifty (50%) per cent of the number required for replacement in Subsection E(2)(a) above, rounded up to the next whole number, shall be of no less than four-inches in caliper on planting. Any of the remaining **deciduous** trees required to be replaced and which exceed four-inch caliper at the time of planting, will reduce the number required for replacement as follows - One tree reduction for each inch of caliper on planting in excess of four inches.

(d) If the total number of **deciduous** replacement trees is greater than ten (10), a variety of deciduous species shall be required, identified by the U.S. Soil Conservation Service as being compatible with the local Soil Type and climate conditions.

(e) Of any **coniferous trees** removed, regardless of caliper, a minimum of seventy (70%) per cent of the number required for replacement in Subsection E(2)(a) above, rounded up to the next whole number, shall have a minimum height on planting of eight (8) feet. Any of the remaining **coniferous trees** required to be replaced and which exceed eight feet in height at the time of planting, will reduce the number required for replacement as follows - One tree reduction for each additional two (2) feet of height on planting.

(f) If the total number of **coniferous** replacement trees is greater than twenty (20), a variety of coniferous species shall be required, identified by the U.S. Soil Conservation Service as being compatible with the local Soil Type and climate conditions.

(g) Should it become necessary to replant within any buffer area, it is recommended that use of species as outlined in the Borough's Route 9W Buffer Zone Maintenance Guidelines. Tree replacement and the number of trees required shall be determined by the Borough agency by the ability of the land to accommodate said trees.

(h) If sufficient space is not available on the lot on which the development is proposed, the Borough agency may require the applicant to plant the replacement trees on other lands owned by the applicant within the Borough of Alpine, on Borough park lands, within public street rights-of-way or any combination thereof. In lieu of off-site replacement, the applicant may contribute to the Alpine Environmental Commission Fund based on a replacement cost estimate prepared by the Borough Engineer.

(i) Downed, severely damaged and destroyed trees within the saved limits shall not be removed until inspected for caliper reference by the Borough agency. Those trees removed prior to inspection shall be deemed to be the highest caliper tree lost.

BE IT FURTHER ORDAINED that this Ordinance shall take effect upon passage and publication as required by law.

ADOPTED: November 25, 2019

These minutes have been approved by the Mayor & Council.