

REGULAR MEETING of the Moonachie Planning Board called to order, J. Molinari in the chair, at Kathryn E. Flynn Civic Center on Thursday, January 17<sup>th</sup>, 2019 at 7:13 P.M. J. Molinari called for Pledge of Allegiance to the Flag.

ROLL CALL: Mayor Vaccaro, C/ Surak,- not present J. Molinari, N. Derevyanik- present  
J. Campbell, M. Meehan, V. Drozd, M. Lyons- present  
J. Telesmanic -not present  
Alternates – A. Arroyo, R. Petrella- present  
Attorney- J. Novello- present, Engineer- not present

Secretary stated that notice of the meeting was announced in accordance with the Open Public Meeting Act.

Chairperson stated “This meeting is a judicial proceeding. Any questions or comments must be limited to issues that are relevant to what the board may legally consider in reaching a decision and decorum appropriate to a judicial hearing must be maintained at all time.”

Motion by N. Derevyanik and second by V. Drozd to waive the Regular Order of the Business.

ROLL CALL: Molinari, Derevyanik, Campbell, Meehan, Drozd, Lyons, Arroyo, Petrella.

All ayes. So ordered.

REORGANIZATION:

Motion by N. Derevyanik and second by J. Campbell to elect J. Molinari as Chairperson for 2019.

ROLL CALL: Molinari, Derevyanik, Campbell, Meehan, Drozd, Lyons, Arroyo, Petrella.

All ayes. So ordered.

Motion by J. Molinari and second by J. Campbell to elect N. Derevyanik as Vice Chairperson for 2019.

ROLL CALL: Molinari, Derevyanik, Campbell, Meehan, Drozd, Lyons, Arroyo, Petrella.

All ayes. So ordered.

Motion J. Molinari and second by V. Drozd to appoint Supriya Sanyal as Secretary for 2019.

ROLL CALL: Molinari, Derevyanik, Campbell, Meehan, Drozd, Lyons, Arroyo, Petrella.

All ayes. So ordered.

Motion by J. Molinari and second by N. Derevyanik to adopt Resolution #2019-1.

RESOLUTION #2019-1

## **RESOLUTION EMPLOYING AN ATTORNEY**

### **WITHOUT COMPETITIVE BIDDING**

**WHEREAS**, there exists a need for the services of a PLANNING BOARD ATTORNEY in accordance with appropriate New Jersey law; and

**WHEREAS**, the provisions of said contract shall be in accordance with the dictates of N.J.S.A. 19:44A-20.5; and

**WHEREAS**, the anticipated term of this contract is one (1) year; and

**WHEREAS**, the all legal services at the hourly rate of \$165.00 per hour, the annual contract shall not exceed \$5,000 and funds are subject to an appropriation by the Mayor and Council of the Borough of Moonachie and will be provided by the local finance office when appropriated; and

**WHEREAS**, the Local Public Contracts Law (N.J.S.A. 40A:111 et seq.) requires that the Resolution authorizing the award of contracts for "Professional Services" without competitive bids and the Contract itself must be available for public inspection;

**NOW, THEREFORE, BE IT RESOLVED**, by the PLANNING BOARD OF THE BOROUGH OF MOONACHIE as follows:

1. The Chairperson and Secretary of the PLANNING BOARD are hereby authorized and directed to execute the attached Contract with James T. Novello, ESQ.
2. This Contract is awarded without competitive bidding as a "Professional Service" in accordance with N.J.S.A. 40A:11-5(1)(a) of the Local Public Contracts Law because the services are to be performed by a person authorized by law to practice a recognized profession.
3. The Business Disclosure Entity Certification and the Determination of Value be placed on file with this resolution.
4. A Notice of this action shall be printed once in the official newspaper of the Borough.

ROLL CALL: Molinari, Derevyanik, Campbell, Meehan, Drozd, Lyons, Arroyo, Petrella.

All ayes. So ordered.

Motion by J. Molinari and second by N. Derevyanik to appoint Kevin Boswell as Planning Board Engineer for the year 2019.

ROLL CALL: Molinari, Derevyanik, Campbell, Meehan, Drozd, Lyons, Arroyo, Petrella.

All ayes. So ordered.

Motion by M. Lyons and second by R. Petrella to adopt Resolution #2019-2

#### RESOLUTION #2019-2

**WHEREAS**, the Open Public Meeting Act requires that appropriate public notice be given in conjunction with the scheduled meetings of all public bodies; and

**WHEREAS**, the PLANNING BOARD OF THE BOROUGH OF MOONACHIE desires to operate in compliance with the aforesaid law; and

**WHEREAS**, the Planning Board intend that formal action be taken at the reorganization meeting, regular monthly meeting sessions and/or special meeting sessions of the Moonachie Planning Board; and

**NOW, THEREFORE, BE IT RESOLVED**, by the PLANNING BOARD OF THE BOROUGH OF MOONACHIE, that the Borough Clerk of the Borough of Moonachie publish the following list of monthly meetings for the calendar year 2019 in accordance with the Open Public Meeting Act:

February 21, 2019  
 March 21, 2019  
 April 18, 2019  
 May 16, 2019  
 June 20, 2019  
 July 18, 2019  
 August 15, 2019  
 September 19, 2019  
 October 17, 2019  
 November 18, 2019 (Monday)  
 December 19, 2019

Executive sessions will be held at 6:45 p.m. followed by the regular public meeting at 7:00 p.m. All meetings to be held at the Kathryn E. Flynn Civic Center, 125 Moonachie Road, Moonachie, NJ.

ROLL CALL: Molinari, Derevyanik, Campbell, Meehan, Drozd, Lyons, Arroyo, Petrella.

All ayes. So ordered.

Motion by M. Lyons and second by R. Petrella to adopt the By-laws dated December 12, 1996, for the year 2019.

ROLL CALL: Molinari, Derevyanik, Campbell, Meehan, Drozd, Lyons, Arroyo, Petrella.  
All ayes. So ordered.

Motion by R. Petrella and second by N. Derevyanik to adopt the minutes of the Regular Meeting of November 20, 2018(no meeting in December, 2018).

ROLL CALL: Molinari, Derevyanik, Campbell- aye Meehan- abstain, Drozd, Lyons, Arroyo, Petrella- aye.  
Seven ayes, one abstain. Motion carried.

#### COMMUNICATIONS:

Supriya Sanyal, Borough Clerk- notification of 2019 appointments of members to the Planning Board.

Bergen County Soil Conservation District- notice of certification of Soil and Sediment Control Plan for underground conduit at Moonachie Avenue.

Borough of Moonachie (Mayor and Council)- requesting Planning Board to review, to report and to recommend on the draft proposed Ordinance regarding Medical Marijuana Uses.

Motion by V. Drozd and second by N. Derevyanik to file communications.

ROLL CALL: Molinari, Derevyanik, Campbell, Meehan, Drozd, Lyons, Arroyo, Petrella.  
All ayes. So ordered.

#### REPORTS:

None

#### OLD BUSINESS:

M. Lyons- spoke about the communication item regarding certification of Soil & Sediment Control Plan. She mentioned that this certification is for Public Services, she will have a meeting with Public Services and she will find out more about the location of the conduit being placed.

Secretary mentioned that it was already approved.

M. Lyons -reviewed communication and spoke about the conduit being able to help the industrial areas which use a higher volume of electricity. She mentioned that PSE&G started from Carlstadt, going through South Hackensack up to Teterboro Landing.

J. Campbell- asked about Airbnb, mentioned that he saw an increase over the holidays with people wanting to go into New York City.

M. Meehan- felt that people should have to come before the board to get a change of use.

J. Molinari -mentioned that there was no consensus with the board at the last meeting.

J. Campbell- spoke about registration requirement for Airbnb in Bradley Beach for each rental.

Secretary- mentioned that the Mayor and Council discussed the Ordinance, the Council felt that the it should not be allowed at all and the Ordinance Committee is reviewing now.

J. Campbell- mentioned about his issues unknown people coming to stay for Airbnb, and it can affect real estate values. Spoke about differences with homes being rented in Bradley Beach.

He- suggested letting the Mayor and Council know the Board's concern.

J. Molinari- mentioned that a concern was who polices the issue.

Attorney Novello- mentioned that the Board was presented the proposed Ordinance for Airbnb by the Mayor and Council, the Ordinance was to provide legalization of Airbnb with stipulated fees and with couple of regulatory items. He spoke about overtone of the Board about this ordinance and the reason for tabling the Ordinance. He recommended for the Board not to do anything at this time and he mentioned that the revised Ordinance may be presented to the board.

M. Meehan- asked what other towns are doing?

Attorney Novello- mentioned that similar to medical marijuana, many towns are regulating or outright banning Airbnb. Commented that either way enforcement of the Ordinance would not be through the Planning Board or the Mayor and Council, it would be through inspectors and

the zoning code official allowing or not allowing Airbnb. He mentioned that someone would have to follow up on the complaint.

M. Lyons- asked about the number of Airbnb in the town.

J. Molinari- mentioned that there are three Airbnb in town.

M. Lyons- confirmed that there is no complain to the Police Department and there is no parking issue due to Airbnb. She mentioned if the Borough flat out say no to Airbnb, people will still try to get around it, and there should be structure.

Attorney Novello- mentioned that the structure will be good if it is enforced.

M. Lyons- mentioned that the registration fees will pay for the inspector for enforcement.

Attorney Novello- mentioned that registration fees alone will not be enough for an inspector, and that the short-term rentals are not prohibited, but illegal occupancy is. He explained about legal short-term rentals.

M. Meehan- mentioned that he has to pay \$125 for C.O. for each time there is change of renter.

N. Derevyanyk- mentioned the renter can sue the owner and the town if something happens due to lack of insurance for short-term rental. He suggested that people can get a special type of homeowner's insurance policy for Airbnb. Spoke about a lack of manpower to enforce the proposed ordinance and to enforce illegal homes currently.

The Board discussed not supporting Airbnb in Moonachie.

Attorney Novello- mentioned the Board is not in favor of Airbnb due to planning and zoning issues.

J. Molinari- asked if any members are in favor of Airbnb.

M. Lyons- answered that she does not have any problems with Airbnb, and mentioned that Airbnb cannot be stopped without legal framework.

Attorney Novello- explained that the Board does not determine whether Airbnb is legal or illegal, but the Mayor and Council would have power to draft the Ordinance, and the proposed draft ordinance to legitimize Airbnb that was given to the Planning Board for review. He mentioned that the Board is not in favor of legitimizing Airbnb.

M. Lyons- asked if the town will be protected.

Attorney Novello -mentioned that the Borough Attorney would need to determine if the town will be protected.

M. Meehan -asked if the Borough can have an Ordinance to prohibit Airbnb.

Attorney Novello- mentioned that the Ordinance to prohibit certain rentals can be done, but the Ordinance can be challenged. He explained that the Ordinance could be for restricted provision for Airbnb and the requirement can be for the insurance. He mentioned that there could be a penalty for violations.

N. Derevyanyk -asked whether the Meadowlands Commission can override this Ordinance.

Attorney Novello- mentioned that the Meadowlands Commission does not have jurisdiction in residential areas. He suggested to send a letter to the Mayor and Council regarding the Board's concerns and to request to provide any revised Ordinance to the Board for review.

M. Lyons- mentioned that the Ordinance should be done to protect the town.

J. Campbell -mentioned that he saw 15 people at an Airbnb, there are two by his home, and one by Joseph Street.

N. Derevyanyk- asked about the process after the Committee reports back to the Mayor and Council. He was told that the Ordinance will be a draft. He confirmed that the people can come to the meeting to voice their opinion.

Secretary- mentioned that the Ordinance will be advertised and prior to the adoption of the ordinance and there will be a public hearing.

M. Lyons -suggested that the Board should be notified prior to the introduction of the ordinance.

Secretary -mentioned that the draft letter will be email to the Board members to review.

Motion by J. Molinari and second by J. Campbell to authorize secretary to send a letter to the Mayor and Council about the Planning Board's opinions on the Short-Term rental Ordinance (proposed).

ROLL CALL: Molinari, Derevyanyk, Campbell, Meehan, Drozd, Lyons, Arroyo, Petrella.  
All ayes. So ordered.

NEW BUSINESS:

None

PUBLIC HEARING (Regular):

No one wishing to be heard.

Motion by R. Petrella and second by V. Drozd to close public hearing.

ROLL CALL: Molinari, Derevyaniuk, Campbell, Meehan, Drozd, Lyons, Arroyo, Petrella.

All ayes. So ordered.

N. Derevyaniuk- asked about the time frame of the report of the committee.

He was told that the Ordinance is a discussion item on the monthly Executive Meeting Agenda.

Motion by V. Drozd and second by N. Derevyaniuk to adjourn meeting at 7:55 P.M.

ROLL CALL: Molinari, Derevyaniuk, Campbell, Meehan, Drozd, Lyons, Arroyo, Petrella.

All ayes. So ordered.

ATTEST:

Supriya Sanyal  
Secretary