

**MAYOR & BOROUGH COUNCIL  
BOROUGH OF SPRING LAKE  
JUNE 9, 2009**

**23669**

Mayor Naughton called the Meeting of the Mayor and Council of the Borough of Spring Lake to order at 7:00 P.M. with a moment of silent prayer and proceeded with the Pledge of Allegiance to the Flag. The Mayor announced that the meeting is being held in accordance with the Open Public Meetings Act and that adequate notice of the meeting has been published and posted per Chapter 231, P.L. 1975.

PRESENT: Mr. Rich, Mrs. Reilly, Mr. Erbe, Mr. Quinn, Mr. Fitzgerald, Mayor Naughton

ABSENT: Mrs. Venables (Arrived at 8:58 P.M.)

ALSO PRESENT: Jane L. Gillespie, Borough Clerk  
Barry Lewis, Borough Administrator  
Joseph Colao, Esq., Borough Attorney  
Peter Avakian, Borough Engineer

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**Council Comments & Staff Reports**

Mayor Naughton reported on the following:

- Asbury Park Press Article on Beach Closings – There was an article in the Asbury Park Press which quoted a representative from the Monmouth County Regional Health Commission #1 as saying that a permanent sign should be erected near the Wreck Pond outfall pipe warning about the contaminants after a rain. It went on further to say that this is the only area they would recommend this for. We contract with them. She spoke with Sandy VanSant from that office and she advised that she was misquoted in the article. Ms. VanSant advised that should was going to contact the author of the article and ask that it be corrected. She also stated that there is no intent to put up any signs.
- Wreck Pond Watershed Commission – There is a discussion later this evening on the proposed Commission. We have the second part of the Grant to utilize. We are not going to use this money for a study. We are hoping to use the \$198,000 we have for a feasibility plan. An RFP has to be submitted to the EPA for approval beforehand and hope to do that before June. We are going to look at not just the quality of the water but also the quantity and how we can mitigate that. Various Methods were discussed including the use of pumps. It is our hope that we can then go for a grant for mediation. We do know that the outfall pipe there has not helped us with any of the problems we encounter.
- North End Pool – We are scheduling within two weeks a meeting with Mr. Wallover the Pool Architect for the North End Pavilion to go over a time schedule and discussion revisions to the plan.
- Sand on Boardwalk – Public Works is cleaning up the sand from the storm, please be patient it seems as though we get one storm cleaned up and then we get another.

Mr. Rich reported that on May 28<sup>th</sup> there was a hearing on the Master Plan. It was a good meeting and there were some good suggestions and they will be noticing another meeting possibly for July. It was noted that the best way to get your opinion heard is to attend the meetings. The Planning Board is willing to listen but there is nothing like someone standing in front of the microphone.

Mrs. Reilly reported that summer recreation sign-ups were held on Saturday. She advised that forms are available on the internet for those who have not signed up yet. The movies and concerts have been scheduled and a printed list will be available and she asked everyone to please check the Spring Lake website as the information will be available there.

As to the energy audit, Mrs. Reilly advised that three proposals were received. This is for the three Borough buildings and range in price. We will be receiving  $\frac{3}{4}$  of the cost back from the energy audit program and if we implement any of the recommendations we will receive the remainder of

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the cost back. She will be reviewing them with Barry Lewis and making a recommendation for award at the next meeting.

Mr. Erbe noted that he attended the end of the year Barbecue for the Drug and Alcohol Alliance and complemented on the work they do. They have the concerts over at the Gazebo.

Mr. Fitzgerald noted that there was another accident at the intersection of Fifth and Warren Avenues. He suggested adding a speed bump and they now make them portable so they can be moved around. He will pass the information on so that it can be discussed with the Chief. Mr. Avakian added that the bumps can be added but that a Municipal Certification is required. He can meet with the Chief on this. Discussion on the fact that there are other intersections that are also dangerous. Mayor Naughton stated that she will speak to the Chief and discuss the accident locations and what can be done.

Discussion of speed limit warning signs and it brings speed to the attention of the drivers.

**Borough Engineer's Report**

Mr. Avakian reported on the following projects:

- Jersey Avenue Improvements – The milling is almost completed and will be finished tomorrow and weather permitting the paving will begin tomorrow and the job completed by the end of the week. There is a change order on the Agenda this evening which relates to utility work. Some of the work was done at the Borough's request because of root infestation in the sewer pipes. There were some conflicts with the storm drainage at the intersection of Jersey and Third Avenues which had to be corrected.
- Arch Rehabilitation & Wall Reconstruction – The wall sections are being completed and should be finished in the next week. The contractor is now getting ready to begin the restoration work on the remainder of the wall. The installation of the irrigation and landscaping and the contractor is hoping to complete the job by the end of job. As to the light, confirmation of their recent meeting was sent to the County for them to sign off on. The light would be moved slightly to the east. It will align more with the boardwalk lights.
- Railroad Station Improvements – The plans and proposals have been prepared. RFP's are out for the roofing repairs and exterior improvements. If we get them back in time a recommendation will be made at the June 23<sup>rd</sup> meeting, if not it will be ready for the first meeting in July.

**ADMINISTRATOR'S REPORT**

Mr. Lewis reported on the following items:

- Historic Trust Fund Grant – The Grant Agreement has been filed and we have received notification that it is complete.
- Community Development Block Grant – Our application was filed last week and our presentation has been scheduled for 12:15 PM on August 5<sup>th</sup>.
- DOT Grant – Local Aid Funding – This year's application is for First Avenue from Monmouth to Brown Avenues. Mr. Avakian stated that since this ties in with Wreck Pond he is hopeful we may get more support as we would make any repairs to the sanitary sewers during this work and will receive support from the DEP.
- Bench Project – All of the original benches are up and he has notified HT Hall that they can finish installing the plaques. On the last eight benches that were added we are awaiting right end pieces and then they will be installed. These benches will be located near the pavilion. It is not known if there will be any additional benches available on the boardwalk until after the

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project is completed but a list is being kept at Borough Hall with no guarantees being given that there will be any additional benches.

- Water Tower Removal – The specifications are just about complete and will be sent out shortly. He will be advertising and will be coming back to Council in July on this issue.
- Catamaran Resolution – This will have to be carried this evening, he is still working out the indemnification and insurance issues. It was noted that the location of the catamarans currently is temporary until the wall is completed and they will be moved further north.

Mr. Colao advised that he has three items for Executive Session this evening.

**Public Comments**

Frank Murphy – 2014 Ocean Avenue, Belmar, and his property is located on the corner of Ocean Avenue and North Boulevard is here regarding the wall. When he received the CAFRA Permit notice back in February he called and was advised that it was going to be built to the same height. Now that it is nearing completion, it is going to be significantly higher. He showed the Mayor & Council some pictures taken from his property. He questioned from a protection perspective would it make a difference if the wall is two feet shorter. Mr. Avakian stated that the project was started before he was with the Borough. The project was three phases of construction. The first phase was the Arch Rehabilitation. The second phase was the orientation of Ocean Avenue. Those two phases were completed last year. This whole project was part of the County's Master Plan. When we were preparing for the third and final phase, we reached out to the County and got the wall specifications that the County used in rebuilding a portion of the wall. Mr. Avakian's office did not design the wall; it was taken from the County's design on the section it rebuilt. In 1994, approximately 125' of the wall was reconstructed by the County. Although the County is funding a portion of it, they wanted the Borough to be the lead agency. The contract included a new concrete footing, a new steel sheet piling and a new concrete wall. All of the documents say to replace the wall in-kind in the same configuration. The County's 1994 documents specified approximately 5 ft. above grade for the new wall and 10ft above the footing with the top elevation being approximately 16 ft. 5 inches which is relative to the mean sea level. They verified those dimensions and we designed this wall to those specifications. The old wall was approximately 2 ft. lower and the reason for that was twofold, 1) the footing failed and the wall was settling and 2) the wall had canted over. Between the tilt and the settlement, you lost about 2 ft. of elevation. The rationale for the wall being there is to prevent windblown sand from migrating onto Ocean Avenue and into Lake Como and to prevent significant tidal surges from impacting Ocean Avenue. Some of the most damaging flood waters are when a tidal surge meets with flood conditions. There will be a significant landscaping plan there which will be similar to but much higher than the plantings on the west side.

Mr. Murphy questioned if the two feet merits taking away the beauty. Mr. Avakian stated he cannot answer that.

Mayor Naughton questioned whose decisions it is? Mr. Avakian stated that they had tried to modify some of the other details, not the height, but were advised by the County that we could not and were very specific on the details that they had given us from 1994

Mr. Avakian added that this is also the result of unintended consequences of the beach re-nourishment in this area is that the sand elevation that used to be significantly lower than even the lower wall elevation is almost up to the top of the wall. The sand does literally blow right up to it. The wall is a protective barrier preventing the sand from blowing onto Ocean Avenue.

Mr. Erbe noted that the area will be improved with the landscaping that will go there but a wall is needed there.

Mr. Murphy stated that he does not know what storm the wall would stop.

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Bob O'Connor 2010 Ocean Avenue stated that the wall is there. He suggested putting the jetty rocks. He felt the whole wall should have been made out of jetty rocks. It would have been cheaper. He felt it would also be more aesthetic.

Mr. Quinn questioned if there are any plans with the landscaping? Mr. Avakian advised he has a small rendering with him but stated to envision it, picture the landscaping on the west side but larger plantings that will be taller.

Mr. Lewis stated that he had spoken with Mr. O'Connor when he came in the office. He suggested that we make an inquiry to the County but questioned who has the authority to make the decision to do something if that is what is decided. Is it the County? Then we have to see the protective benefits of having the wall at various heights. There would then have to be a cost benefit analysis. Is it feasible to cut some of it down? If the County says there is no way to lower it then that is it. If the County comes back and states that if you take a foot off you lose a lot of your protection, then you have to consider that. His suggestion would be that we contact the County Engineer and find out if the height is flexible. If it is, then the cost would have to be weighed versus the detriment in terms of reduced protection and the aesthetic benefit.

Mr. Avakian noted that you could take 12 inches off a newly poured wall but you cannot add 12 inches so it would be his recommendation to continue and take the comments this evening under advisement.

Susan Roccesano 2159 Fifth Avenue questioned the pending amendment to an Ordinance regarding the height restriction which affects the plans on their new house which they are beginning to frame. They did speak to Mr. Lewis who advised that it was not that part of the Ordinance that raised questions, it was not the spires and belfries it was the second component that raised questions with Borough Attorney and Planning Board. Mayor Naughton stated that the Ordinance was tabled. Mr. Lewis stated that the Ordinance could be bifurcated if he cannot get the other issues resolved. Mr. Colao stated that first part of fine it the issues of soil and plan reviews that has some conflicts. He hopes to have it all for the next meeting for introduction but if not, he will have the portion that deals with the spires and belfries.

Mrs. Roccesano questioned the procedure. She is advised that it would be introduced the next meeting, with the Public Hearing and adoption scheduled for the following meeting provided the Planning Board has an opportunity to review it. She is further advised that the Ordinance becomes effective immediately.

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Ordinances for Introduction - None

Ordinances for Adoption - None

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Consent Agenda

Mr. Fitzgerald offered the following Resolution and moved its adoption, seconded by Mrs. Reilly.

R-09-117 RESOLUTION – REFUNDING UNUSED ESCROW FEES

WHEREAS, escrow fees were submitted to the Borough for the block and lot set forth below, and

WHEREAS, the Planning Board Secretary has reviewed this account and found that the monies should be returned to the applicant.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Borough Council of the Borough of Spring Lake that the following monies be returned as recommended by the Planning Board Secretary:

Table with 5 columns: Agency Name, Block, Lot, Address, and Amount. Row 1: Mary Holder Agency, Block 81, Lot 17, 306 Jersey Ave/ 1301-06 Third Ave, \$4,366.50

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ROLL CALL:

AYES: Mr. Rich, Mrs. Reilly, Mr. Erbe, Mr. Quinn, Mr. Fitzgerald

NAYS: NONE

ABSENT: Mrs. Venables

ABSTAIN: NONE

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Mr. Fitzgerald offered the following Resolution and moved its adoption, seconded by Mrs. Reilly.

**R-09-118 RESOLUTION – APPROVING OFF-DUTY PAY AND RETAINING ADMINISTRATIVE FEES**

WHEREAS the Borough of Spring Lake has received the monies as set forth below in connection with the employment of off-duty Police employees, and

WHEREAS this money has been deposited by the Borough of Spring Lake in an account designated 'RESERVE FOR OFF-DUTY EMPLOYMENT';

NOW THEREFORE BE IT RESOLVED by the Mayor and Borough Council of the Borough of Spring Lake that payment be made to the employees as shown on the payroll voucher as follows:

5/26/2009 Friends of the Spring Lake Five \$1,504.00 Admin Fees: \$96.00 Total Received: \$1,600.00

BE IT FURTHER RESOLVED by the Mayor and Borough Council of the Borough of Spring Lake that the administrative fee(s) are to be retained by the Borough of Spring Lake as unanticipated revenue.

ROLL CALL:

AYES: Mr. Rich, Mrs. Reilly, Mr. Erbe, Mr. Quinn, Mr. Fitzgerald

NAYS: NONE

ABSENT: Mrs. Venables

ABSTAIN: NONE

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**Resolutions**

Resolution R-09-114 – Carried to the next meeting.

Mrs. Reilly offered the following Resolution and moved its adoption, seconded by Mr. Erbe.

**R-09-119 RESOLUTION – RENEWAL OF CERTAIN PLENARY RETAIL CONSUMPTION LIQUOR  
LICENSES FOR THE YEAR 2009/2010**

WHEREAS, the holder of certain plenary retail consumption liquor licenses set forth below have applied for renewal of their respective licenses and which applications for renewal have been found to be complete in all aspects, and

WHEREAS, the applicants for renewal have been found to be qualified to be licensed according to all statutory, regulatory and municipal A.B.C. laws and regulations, and

WHEREAS, the Governing Body is satisfied that the applicants should have the licenses renewed.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Borough Council of the Borough of Spring Lake that the following plenary retail consumption licenses be renewed for the year commencing July 1, 2009 and expiring June 30, 2010:

<u>NAME</u>	<u>LICENSE NUMBER</u>	<u>ANNUAL FEE</u>	<u>LOCATION</u>
COSLIN, Inc.	1348-33-006-004	\$1,790.00	The Breakers
Essex & Sussex Condo Assoc.	1348-33-008-009	\$1,790.00	Essex & Sussex

Mr. Quinn advised that he will be voting no and would like to explain why. He is not voting no against the COSLIN, Inc. application. The Essex & Sussex Condominium Association under the settlement agreement has been required to apply for a Club License and surrender its plenary retail consumption license. They have not done so. He questioned the Council's legal authority to continuously waive stipulations of the settlement agreement and he does not know what that does by prejudicing our position that the Essex & Sussex Condominium Association was required to surrender this license after having it to convert it to a Club License. He just wanted to have everyone know why he was voting against the Resolution.

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Mr. Rich questioned if this is the full license but they operate as a Club License? Mayor Naughton stated that they have had the full license but operate it as a Club License. Mayor Naughton stated that this will not change how the E&S operates. They are restricted on serving alcohol to their owners. She added that you and I can't go in there and be served a drink.

ROLL CALL:

AYES: Mr. Rich, Mrs. Reilly, Mr. Erbe, Mr. Fitzgerald

NAYS: Mr. Quinn

ABSENT: Mrs. Venables

ABSTAIN: NONE

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Mrs. Reilly offered the following Resolution and moved its adoption, seconded by Mr. Erbe.

R-09-120 RESOLUTION – RENEWAL OF CERTAIN PLENARY RETAIL DISTRIBUTION LIQUOR LICENSES FOR THE YEAR 2009/2010

WHEREAS, the holder of certain plenary retail distribution liquor licenses set forth below have applied for renewal of their respective licenses and which applications for renewal have been found to be complete in all aspects, and

WHEREAS, the applicants for renewal have been found to be qualified to be licensed according to all statutory, regulatory and municipal A.B.C. laws and regulations, and

WHEREAS, the Governing Body is satisfied that the applicants should have the licenses renewed.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Borough Council of the Borough of Spring Lake that the following plenary retail distribution licenses be renewed for the year commencing July 1, 2009 and expiring June 30, 2010:

Table with 4 columns: NAME, LICENSE NUMBER, ANNUAL FEE, LOCATION. Rows include WWB, Inc. and Casagrande Liquors, LLC.

ROLL CALL:

AYES: Mr. Rich, Mrs. Reilly, Mr. Erbe, Mr. Quinn, Mr. Fitzgerald

NAYS: NONE

ABSENT: Mrs. Venables

ABSTAIN: NONE

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Mrs. Reilly offered the following Resolution and moved its adoption, seconded by Mr. Erbe.

R-09-121 RESOLUTION – RENEWAL OF CERTAIN CLUB LIQUOR LICENSE FOR THE YEAR 2009/2010

WHEREAS, the holders of a certain club liquor license set forth below have applied for renewal of their respective licenses and which applications for renewal have been found to be complete in all aspects, and

WHEREAS, the applicants for renewal have been found to be qualified to be licensed according to all statutory, regulatory and municipal A.B.C. laws and regulations, and

WHEREAS, the Governing Body is satisfied that the applicants should have the licenses renewed.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Borough Council of the Borough of Spring Lake that the following club license be renewed for the year commencing July 1, 2009 and expiring June 30, 2010:

Table with 4 columns: NAME, LICENSE NUMBER, ANNUAL FEE, LOCATION. Row includes Spring Lake Bath & Tennis.

ROLL CALL:

AYES: Mr. Rich, Mrs. Reilly, Mr. Erbe, Mr. Quinn, Mr. Fitzgerald

NAYS: NONE

ABSENT: Mrs. Venables

ABSTAIN: NONE

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Mrs. Reilly offered the following Resolution and moved its adoption, seconded by Mr. Erbe.

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**R-09-122 RESOLUTION AUTHORIZING CHANGE ORDER NO. 1  
CONTRACT #03-2008 - JERSEY AVENUE IMPROVMENTS  
FERNANDES CONSTRUCTION**

WHEREAS, Contract #03-2008 for Jersey Avenue Improvements was awarded to Fernandes Construction in the amount of \$278,758.00, and

WHEREAS, Borough Engineer, Peter R. Avakian has recommended Change Order No. 1 in the amount of \$27,572.50 for a total contract of \$306,330.50.

NOW, THEREFORE BE IT RESOLVED by the Borough Council of the Borough of Spring Lake that Change Order No. 1 increasing said Contract in the amount of \$27,572.50 for a total contract amount of \$306,330.50 be and is hereby authorized for the above contract awarded to Fernandes Construction.

Mr. Fitzgerald asked Mr. Avakian to explain the reason for the change order. Mr. Avakian stated that this is a good contractor he doesn't look for work when there is none. This is for utility work, relocations or repairs or rehabilitations in areas that were exposed during construction. Several were suggested by the Borough and the other was a necessity for putting in the storm drainage improvements.

ROLL CALL:

AYES: Mr. Rich, Mrs. Reilly, Mr. Erbe, Mr. Quinn, Mr. Fitzgerald

NAYS: NONE

ABSENT: Mrs. Venables

ABSTAIN: NONE

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Mr. Quinn offered the following Resolution and moved its adoption, seconded by Mr. Fitzgerald.

**R-09-123 RESOLUTION – APPROVAL OF BILLS – JUNE 9, 2009**

WHEREAS, the Borough of Spring Lake received certain claims against it by way of vouchers received during the period ending June 9, 2009, and

WHEREAS, the Borough Finance Committee has reviewed said claims.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Borough Council of the Borough of Spring Lake, County of Monmouth, that the following claims be certified by the Chief Financial Officer for approval and payment.

<u>SUMMARY</u>	
CURRENT FUND	575,978.38
GENERAL CAPITAL	61,348.56
WATER/SEWER CAPITAL	1,200.00
WATER/SEWER OPERATING	19,286.21
DOG TRUST	4.80
SPRING LAKE TRUST	6,556.50
RECREATION	1,162.38
BEACH OPERATING	108,317.39
BEACH CAPITAL	8,000.00
POOL OPERATING	19,115.73
TOTAL	\$800,969.95

ROLL CALL:

AYES: Mr. Rich, Mrs. Reilly, Mr. Erbe, Mr. Quinn, Mr. Fitzgerald

NAYS: NONE

ABSENT: Mrs. Venables

ABSTAIN: NONE

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Mr. Quinn offered the following Resolution and moved its adoption, seconded by Mr. Fitzgerald.

**R-09-124 RESOLUTION AUTHORIZING THE EXECUTION OF A COLLECTIVE  
BARGAINING AGREEMENT WITH THE GUARDS OF SPRING LAKE**

WHEREAS, the Guards of Spring Lake is the duly recognized collective bargaining unit for the lifeguards employed by the Spring Lake Beach Utility; and

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WHEREAS, the Borough and the GSL have negotiated and agreed to the terms for a three year Collective Bargaining Agreement covering the period from 2009 through 2011 providing for annual wage and salary increases of 2.5%, 2.5% and 2.25% respectively;

NOW, THEREFORE, BE IT RESOLVED, that the Mayor, Administrator and Clerk are hereby authorized to execute the attached Collective Bargaining Agreement for the period of 2009 through 2001 between the Guards of Spring Lake and the Borough.

ROLL CALL:

AYES: Mr. Rich, Mrs. Reilly, Mr. Erbe, Mr. Quinn, Mr. Fitzgerald

NAYS: NONE

ABSENT: Mrs. Venables

ABSTAIN: NONE

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Mr. Quinn offered the following Resolution and moved its adoption, seconded by Mrs. Reilly.

R-09-125 RESOLUTION AUTHORIZING THE EXECUTION OF A LEASE AGREEMENT WITH THE COMMUNITY HOUSE OF SPRING LAKE FOR THE SPRING LAKE LIBRARY

WHEREAS, the Spring Lake library leases and occupies space in the Community House of Spring Lake which houses the library, its collection, offices and activities; and

WHEREAS, the Borough and the Community House have negotiated and agreed to the execution of a lease covering the period from 2009 through 2019 providing for rent of \$2,000 per month;

NOW, THEREFORE, BE IT RESOLVED, that the Mayor, Administrator and Clerk are hereby authorized to execute a lease agreement with the Community House of Spring Lake for rental of the Spring Lake Library space, at a rent of \$2,000 per month.

Mr. Rich questioned this. He was not aware that we pay rent for the library to the Community House. He thought it was part of the grant from Mr. Brown. Mayor Naughton explained that we pay rent to house the library there. For the last several years the rent has been \$1,000.00 a month. The rent will be locked in for a ten year period. Mayor Naughton stated that Spring Lake does not own the building. Mrs. Reilly explained that it is always to remain in trust and that the Library was to be located there so long as they chose to be there. The Library has chosen to be there. For years the rent was \$500.00 and then in the early 1990's it was \$750.00 and then a couple of years ago with the increase in utilities it was increased to \$1,000.00. The Library budget is statutory. She felt that \$2,000.00 to rent a facility like the Library is a fair amount. Mayor Naughton felt that \$24,000 a year to house the Library there is reasonable.

Mr. Quinn stated that he would like to vote on a Resolution that defines the term of the lease and if we are approving a lease agreement but if there is any kind of escalator then the Council should know what it is authorizing. He is comfortable in approving a lease for \$2,000.00 month.

Mr. Rich asked about moving the Library to the train station? He is advised that it was looked into but the building was not big enough.

After a discussion, it was decided to make the Resolution clear that the word base would be removed to clarify that the rent is \$2,000.00 a month for a ten year period.

ROLL CALL:

AYES: Mr. Rich, Mrs. Reilly, Mr. Erbe, Mr. Quinn

NAYS: NONE

ABSENT: Mrs. Venables

ABSTAIN: Mr. Fitzgerald

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Mr. Quinn offered the following Resolution and moved its adoption, seconded by Mr. Fitzgerald.

R-09-126 RESOLUTION - AWARD OF CONTRACT #03-2009 FOUR WHEEL DRIVE BEACH TRACTOR

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WHEREAS, on June 9, 2009 bids were received for the furnishing and delivery of a Four Wheel Drive Beach Tractor and Related Equipment and Accessories to the Borough of Spring Lake with Barry R. Lewis, Jr., Borough Administrator and Jane L. Gillespie, Borough Clerk present, and

WHEREAS, two (2) bids were received, and

WHEREAS, Storr Tractor Company, 3191 Highway 22, Branchburg, NJ 08876 was the lowest responsible bidder in the total net amount, after deducting trade in allowance, of \$43,513.00 and found to be satisfactory.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Borough Council of the Borough of Spring Lake that Contract #03-2009 is hereby awarded to Storr Tractor company, 3191 Highway 22, Branchburg, NJ 08876 in the amount of \$43,513.00.

I, Susan Schreck, Chief Financial Officer of the Borough of Spring Lake hereby certify that funds are available from: Ordinance 2009-1 \$43,513.00. /s/ Susan Schreck, Chief Financial Officer

ROLL CALL:

AYES: Mr. Rich, Mrs. Reilly, Mr. Erbe, Mr. Quinn, Mr. Fitzgerald

NAYS: NONE

ABSENT: Mrs. Venables

ABSTAIN: NONE

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**Business Items Under Consideration**

**Letter from First Aid RE: EMT Training Fund** – Mayor Naughton stated we received a letter from our First Aid Squad about the shift in funds from the EMT Training Fund to what the Governor thinks are needier areas. Mayor Naughton read the letter from the First Aid Squad. They are asking us to adopt a Resolution to oppose the transfer. A separate letter was received from Katherine Smith a Spring Lake resident who essentially stated the same thing as the Squad but in greater detail. Mayor Naughton asked Mr. Lewis to take a look at the sample Resolution and put a Resolution in front of us for the next meeting that supports the Squad's request.

**Proposed Wreck Pond Watershed Commission Discussion**

Mr. Fitzgerald stated that the Monmouth County Planning Board has put together the Wreck Pond Watershed Regional Stormwater Agreement Plan. The people hired by the County were Najarian Engineering and also a bid went out for a facilitator and that was given to John Tiedemann from Monmouth University. Basically what they have been working on for the last three years is the watershed plan under the auspices of Spring Lake, Spring Lake Heights, Wall and Sea Girt. It involves all four towns. By putting a commission together the County feels that money could be obtained like the many other commissions that exist. This Agency would be used to obtain grant money that we could use in the future to dredge Wreck Pond. Spring Lake cannot do it on its own. To get the water to move we need some changes in the pipe so that we get some tidal water. With that as the introduction, the County is asking that each one of the towns listen to a presentation. It will be made by Mr. John Tiedemann who will be the facilitator of the Commission and he will present the reasons and the concept of what the Commission would do and Najarian represented by Georgia Marino will make a presentation regarding the history and some of the things that have happened already and some of things that are projected. With that he and Mr. Mullen attended a meeting this morning and have asked them to keep it to forty minutes and the remainder for questions and answers. We will be enlightened as to what this Commission is about. We can then make our decisions on whether or not we want to do this and there is no harm in listening to what they have to say and what the benefit of this is to Spring Lake.

Jim Mullen, OEM stated that this is a very complex watershed. If you look back 12 to 13 miles there are a large series of streams and detention basins in our area that can help care and facilitate our watershed. This Commission would be designed to look at that. The study that was done over the last couple of years identified approximately twenty actions that need to take place in this region. A few of them are funded but most of them are not. The Commission would seek funding. There

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have to be safeguards in the formation of the Commission. He stated that we would have to be sure the Commission fits our needs.

Mr. Quinn questioned if he studied the plan itself? Mr. Mullen stated no, it is still being developed. Mr. Quinn advised the he was speaking of the Management Plan. Mr. Mullen responded yes. Mr. Quinn questioned the impact it has on OEM as it relates to flood when he felt it dealt with more the quality of water. Mr. Mullen explained that these issues were added after the 2005 flood. That is when flood control was added into the study. Mr. Mullen stated that he told them we would not wait for the Commission. He is in contact with the County and State to look for grants that would help us mitigate the flood problem. The State is working with FEMA. He has also been in contact with a company that does pumps and he has asked them for information.

Mr. Fitzgerald stated that the Department of Agriculture has identified the speed of the water and where stops could be placed. We know that the water comes from upstream.

Mr. Quinn felt that we should not move forward and create another level of bureaucracy if it is not going to meet our needs. Mr. Quinn stated that Professor Tiedemann has done a study on the Wreck Pond Watershed. This study was based on his theory he has that he could differentiate between different types of source pollution. When he completed his study in 2007 he didn't come to the Borough of Spring Lake and present his study to us and discuss the concerns with us or our Borough Engineer so that we could evaluate them, he went to the Asbury Park Press. What he did was basically reach conclusions that the Borough of Spring Lake was responsible for human effluent polluting Wreck Pond based on problems from our sanitary sewer system. As the 2008 Najarian Report points out, Professor Tiedemann's report is fundamentally flawed. In fact the effluent could have been from any number of sources. The Najarian firm itself has debunked Professor Tiedemann's report. The Borough in reaction to the reporting and to the concerns that our residents properly have went out and spent substantial sums of money to evaluate our systems to see whether or not there was a connection that had tapped into the storm sewer. We were never able to identify any such problem. He felt that his work is nothing but junk science. He does not feel that the Borough should be inviting in someone to make presentations to us who has attacked the Borough of Spring Lake and in fact presented findings that are not backed up by Najarian. This is why he does not feel we should be put in a position where we are joining a Commission where all of the professionals have been engaged. It may be that Spring Lake may want to in the future engage the Najarian firm in the future.

As to Najarian, the fact is we have already contacted with them and spent hundreds upon hundreds of thousands dollars in order to obtain a report the purpose of which was to develop recommendations to improve water quality conditions and reduce closings of local beaches due to the outflow from the pond. The report was dropped off to us in draft form after paying at least \$330,000, we have never gotten a final report. They never came to the Council and talked about their recommendations. If you read the report what they basically say is they think we should do more studies, not any conclusion. They come up with a set of preliminary recommendations about putting into place a weir structure, or a damn structure to allow for the timing for the outflow of water in the event of storm events.

The fact of the matter is even in their own study, they do not provide any real helpful solution. He does not feel we need a Commission to administer grants or oversee consultant projects. The Borough Council through its Administrator can work with the other Administrators of the other neighboring communities. There is no need to form another bureaucratic entity. He has no problem with inviting the Monmouth County Planning Board professionals in. They can tell us whether or not the plan has been adopted. What is the funding source that will pay for these professionals? He would rather have the Avakian firm providing us with advice on the steps we

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ought take to implement the steps to take to implement our portion of the stormwater management plan. We have a highly confident professional who puts the interests of his clients first.

Mr. Mullen agreed with Mr. Quinn to an extent.

Mr. Quinn does not want him to bring his consultants with him.

Mayor Naughton stated she did read the report. She agreed that the results are less than startling. We have a \$198,000 grant that we have not given them and we are looking at feasibility for mitigation instead hiring Najarian for another study for \$198,000. They are coming here to convince us of the need for the Commission. It does not mean we have to; it makes sense if they are in a position to help us. The road we have been going down has not yielded us much.

Mr. Rich stated that we put our trust in our professionals. He does not like the idea of this Commission. He is concerned because they usually take a life of itself. He agrees with Mr. Quinn on not wanting to have them here.

Mrs. Reilly stated that it doesn't hurt to listen. When they are here is the time to put them on the spot. Just because they are here making a presentation does not mean we are going to go with them.

Mr. Quinn stated that these things get a momentum of their own. The public thinks something is going to get this done; they are going to prevent the flooding. But that does not happen. He wants the people holding the purse strings to explain how it is funded. What are the sources for grants? How does this work? He has been sold by the Najarian firm before and how they came in with marketing materials when we had Congressman Oberstar here with most of the time being compromised by the Najarian firm telling him about their expertise.

Mr. Mullen stated that the actions are beyond a single municipality. He does not know what the right path is going forward but feels that we should listen to Turner Shell. He does feel that we need help from the other towns.

Mayor Naughton stated that Dr. Shell has asked the four towns to listen to the presentation. She respects the work that has been done over the last two years. We may learn that we do not want to do it.

Mr. Rich questioned what the upside of this is? Mr. Mullen stated that the flooding impact of this affects Spring Lake 90% and Spring Lake Heights 10%. To do something about that he feels will have to be a Spring Lake initiative but he feels that Spring Lake Heights would be interested in this. As to getting money to dredge Wreck Pond, we have to show that we have made initiative to prevent sediments from coming downstream. The only way to get that done is to convince Wall to get this work done in some of their areas. They are not going to pay for this out of their pocket. He stated that however it is done; it will have to be a group effort.

Mr. Erbe felt we should listen to what they have to say but agreed with Mr. Quinn on the Najarian firm. He is concerned when the term Commission is used.

Mr. Fitzgerald stated that the concept would be to meet every month and get things done. There are a lot of things that have to be discussed but it needs to be treated as a whole watershed not with each town doing their own thing. He stated that the cost to each town should not be more than a couple of hundred dollars from each town. The County will be involved in this and have representation on the Commission. It is almost like what we are doing now but we will have some ownership. He felt it required more than just four Administrators sitting down.

Mayor Naughton asked if there were any strong objections to them coming to one of our July meetings? Mr. Rich would like to see a final delivery document and should put them on notice for

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that. Mr. Lewis to check the contract documents as to whether or not they were required to give a final report. He felt that this should be delivered before we have the meeting.

Mr. Lewis to arrange the meeting in July and the presentation should be limited to 40 minutes.

Mr. Mullen stated that they have asked that Najarian not make a presentation as it has no value.

**Public Discussion**

Ms. Twomey commented on the fact that it is at the end of the contract, and Fernandes the contractor of Jersey Avenue is coming in with such a small change order. Mayor Naughton clarified that most of the changes were at our request.

8:58 P.M. – Mrs. Venables arrived.

**Executive Session**

Mrs. Reilly offered the following Resolution and moved its adoption, seconded by Mr. Rich.

**R-09-127 RESOLUTION – PURSUANT TO N.J.S.A. 10:4-13 – EXECUTIVE SESSION**

BE IT RESOLVED by the Mayor and Borough Council of the Borough of Spring Lake that pursuant to N.J.S.A. 10:4-13, the Mayor and Council shall adjourn to Executive Session for the purpose of discussing pending litigation, 217 Morris Avenue, 308 Morris Avenue and the Grand Victorian Liquor License, and

BE IT FURTHER RESOLVED that upon conclusion of said matter(s) this discussion will be disclosed by the Borough Clerk via Executive Session Minutes upon written authorization from the Borough Attorney.

ROLL CALL:

AYES: Mr. Rich, Mrs. Reilly, Mr. Erbe, Mrs. Venables, Mr. Quinn, Mr. Fitzgerald.

NAYS: NONE

ABSENT: NONE

ABSTAIN: NONE

TIME OF ADJOURNMENT TO EXECUTIVE SESSION: 8:58 P.M.

MEETING IS RECONVENED AT: 9:39 P.M.

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Mr. Rich offered a motion to adjourn the meeting, seconded by Mr. Fitzgerald.

ROLL CALL:

AYES: Mr. Rich, Mrs. Reilly, Mr. Erbe, Mrs. Venables, Mr. Quinn, Mr. Fitzgerald.

NAYS: NONE

ABSENT: NONE

ABSTAIN: NONE

TIME OF ADJOURNMENT: 10:15 P.M.

Respectfully submitted,



JANE L. GILLESPIE

Borough Clerk

Approved at a meeting held on: July 14, 2009