

**MINUTES OF A SPECIAL SESSION OF THE EDGEWATER MAYOR AND COUNCIL
HELD IN THE NANCY MERSE COUNCIL CHAMBERS, LOCATED AT 55 RIVER ROAD,
EDGEWATER, COUNTY OF BERGEN, STATE OF NEW JERSEY ON
JULY 23, 2014**

PRESIDING: Mayor James F. Delaney

PRESENT ON ROLL CALL: Councilman Henwood, Councilman Doran, Councilman Monte,
Councilman Vidal and Councilman Bartolomeo

ALSO PRESENT: Administrator Gregory S. Franz, Borough Clerk Barbara Rae and Borough Attorney Philip Boggia

ABSENT: Councilman Jordan

OPEN PUBLIC MEETING ACT

Mayor Delaney read the Open Public Meetings Act Statement into the Record.

MOMENT OF SILENCE

Mayor Delaney asked for a moment of silence.

SALUTE TO FLAG

Councilman Monte led the Pledge of Allegiance.

CONFERENCE

- Tom Bambrick and Dan Latanzzi, Representatives of First Environment, were present to discuss the samplings taken at Veterans Field. They also gave an update on the Site Improvement Plan for remediation.
- Displayed map of Borings/Samplings at Veterans Field.
- Map depicts the areas that require hazardous disposal versus those areas that do not require hazardous disposal.
- Spoke about the number of materials that are hazardous. So far 11,000 tons are hazardous.
- Spoke about the number of samples collected and explained the color coding. Red and blue must be removed. Green stays.
- Administrator Franz noted that the specifications had called for a liner to be installed on top of the existing grate. Noted samples were taken from above the liner and that it was material that was trucked to the site.
- Mayor Delaney asked about results from the remaining tests.
- Borough Attorney Boggia noted that bid specifications will be based upon data supplied by First Environment regarding the sample results. He further commented about the components of the bid.
- Tim Corriston, Special Counsel to Borough, noted that they are moving on two tracks: One is Litigation and the other is Remediation. Remediation is priority but one does not affect the other. Have had numerous conversation and discussions with Bond people. Spoke about Waterside and the Bonding Company.

Mayor Delaney asked that the representative present explain the two resolutions that were scheduled for authorization by the Council. A review and explanation was presented.

Administrator Franz reviewed the following referenced resolutions:

RESOLUTIONS

1.2014-189 First Environment Proposal Amendment to Scope of Work to Perform Additional Testing Based on July 18, 2014 Proposal

2.2014-190 First Environment Proposal –Amendment to Scope of Work to Perform Additional Testing Based on July 21, 2014 Proposal

OPEN MEETING TO PUBLIC

Mayor Delaney opened the meeting to the public and the following were heard:

Mary Hogan, 606 Undercliff Avenue:

- Spoke about the two resolutions on the agenda.
- Asked questions about the general contract, indemnification and the consultant.
- Asked if similar conditions were in the Terms contract.
- Regarding the 2nd resolution, wants explanation of compounds.
- Referenced her OPRA requests for correspondence between the DEP and EPA. She claimed that nowhere was there a statement from the DEP that they had rejected what TERMS had submitted. According to 5/14 email it was agreed that the SIP submitted by TERMS be rescinded without prejudice because First Environment is preparing a new one.
- Asked about the testing of the Little League Field.
- Asked what level are we bringing the field up to now?

Valory Bardinas, 16 Hudson Terrace:

- Asked for explanation of saving 1,000 cubic feet
- Asked about additional testing of the Little League Field.
- Commented about history and the review of data.
- Referenced OPRA documents.
- Believes TERMS was vigilant and is being held as a scapegoat.
- Commented on history of Waterside.
- Read a list of questions. Submitted written questions and wants an answer in writing.

Tina Munson, 270 Old River Road:

- Doing a terrible disservice to children of Borough by taking so long to get the situation corrected.
- Teaches art classes at Community Center.
- Children need to be able to play outside at play time. Referenced playground

Rash Maderi, 22 Legend Hills:

- Asked if discussion is only for complaining or will they talk resolutions.
- Asked about Bond and legal remedy.
- Mayor Delaney responded to questions.
- Asked for more communication with the Community.
- Mayor Delaney and Councilman Vidal commented.

Denis Gallagher, 18 Arlington Terrace:

- Asked about a timeframe.
- Also asked about televising meetings.

Peter DePaul, 606 Undercliff Avenue:

- Problem has been ongoing for three years.
- Believes should proceed with caution.
- Asked about Little League Field.
- Commented on Waterside's track record.

Shelby Thompson, 385 Undercliff Avenue:

- Asked if contamination has drifted to any surrounding area.

No one else wished to be heard therefore the Mayor closed the meeting to the public.

Councilman Henwood asked for confirmation that the Borough is committed to the levels previous agreed to. It was agreed.

Mayor Delaney informed Mr. Gallagher that proposals have been received to record/televise meetings and will be discussed at the next meeting.

Borough Attorney Boggia spoke about 38 COAH. The LSRP has indicated to the DEP that there is no contamination on that site. He also noted 660 River Road. Mr. Boggia stated that the DEP has been to 38 COAH, the adjacent site and the ballfield. It appears that the DEP is satisfied.

Councilman Henwood asked Special Counsel Corriston to confirm that the Governing Body has directed him to take every aggressive measure to make Waterside Construction, who has admitted contaminating the field, to pay, either Waterside or the Bond Company, for the damage they have done, either through mediation or litigation. Special Counsel Corriston agreed.

Special Counsel Corriston also spoke about the SIP and that TERMS had withdrawn it when they found out they were being replaced. Spoke about the SIP and that he was informed that it would not have been accepted.

- DEP has issued a notice of violation which Waterside is now responding to. The building is now under the jurisdiction of the DEP. EPA is also investigating.

CLOSED SESSION DISCUSSION

1. Litigation:

Tim Corriston, Special Counsel to Borough:
Veterans Field Litigation/Attorney-Client Privilege

RESOLUTION AUTHORIZING EXECUTIVE SESSION

WHEREAS, the Borough of Edgewater desires to meet in private and/or Executive Session to discuss matters that are permitted by the exceptions to the Open Public Meetings Act as indicated herein:

- _____ L Any matter which, by express provision of Federal law or State statute or court rule shall be rendered confidential or excluded from discussion in public;
- _____ 2. Any matter in which the release of information would impair a right to receive funds from the federal government;
- _____ 3 Any material the disclosure of which constitutes an unwarranted invasion of individual privacy;
- _____ 4. Any collective bargaining agreement, or the terms and conditions which are proposed for inclusion in any collective bargaining agreement, including the negotiation of terms and conditions with employees or representatives of employees of the public body.
- _____ 5. Any matter involving the purchase, lease, or acquisition of real estate with public funds, the setting of a banking rates or investment of public funds, where it could adversely affect the public interest if discussion of such matters were disclosed;
- _____ 6. Any tactics and techniques utilized in protecting the safety and property of the public provided that their disclosure could impair such protection. Any investigations of violations or possible violations of the law;
- _____ XX 7. Any pending or anticipated litigation or contract negotiation in which the public body is, or may become a party. Any matters falling within the attorney-client privilege to the extent that confidentiality is required in order for the attorney to exercise his ethical duties as a lawyer;
- _____ 8. Any matter involving the employment, appointment, termination of employment, terms and conditions of employment, evaluation of the performance of, promotion or disciplining of

any specific prospective public officer or employee or current public officer or employee employed or appointed by the public body, unless all the individual employees or appointees whose rights could be adversely affected request in writing that such matter or matters be discussed at a public meeting.

- _____9. Any deliberation of a public body occurring after a public hearing that may result in the imposition of a specific civil penalty upon the responding party or the suspension or loss of a license or permit belonging to the responding party as a result of an act or commission for which the responding party bears responsibility.

NOW, THEREFORE, BE IT RESOLVED that the Mayor and Council shall recess into private and/or Executive and Closed Session to discuss the aforementioned subject matter and the minutes of same may be disclosed at such time in the future as the GOVERNING BODY in its discretion may determine according to law.

On roll call the vote was as follows:

Councilman Henwood	Yes
Councilman Doran	Yes
Councilman Monte	Yes
Councilman Vidal	Yes
Councilman Jordan	Absent
Councilman Bartolomeo	Yes

The governing body returned from Closed Session.

PRESENT ON ROLL CALL: Councilman Henwood, Councilman Doran, Councilman Monte, Councilman Vidal and Councilman Bartolomeo

ALSO PRESENT: Mayor Delaney, Administrator Gregory S. Franz, Borough Clerk Barbara Rae and Borough Attorney Philip Boggia.

ABSENT: Councilman Jordan

RESOLUTIONS

2014-189 First Environment

No questions or comments.

1.2014-189 First Environment Proposal Amendment to Scope of Work to Perform Additional Testing Based on July 18, 2014 Proposal

2.2014-190 First Environment Proposal –Amendment to Scope of Work to Perform Additional Testing Based on July 21, 2014 Proposal

A motion to approve Resolutions 2014-189 and 2014-190 was made by Councilman Henwood and seconded by Councilman Vidal.

On roll call the vote was as follows:

Councilman Henwood	Yes
Councilman Doran	Yes
Councilman Monte	Yes
Councilman Vidal	Yes
Councilman Jordan	Absent
Councilman Bartolomeo	Yes

RESOLUTION 2014-189

July 23, 2014

INTRODUCED: Councilman Henwood

SECOND: Councilman Vidal

First Environment Technical Support for Veterans Field - Amendment to Scope of Work to Perform Additional Testing Based on July 18, 2014 Proposal

WHEREAS, the Borough of Edgewater required the services of a professional Environmental Engineer to address the requirement for the remediation of the contaminated soils/historic fill detected at Veteran's field and for litigation support services in connection therewith; and

WHEREAS, on May 19, 2014, by Resolution 2014-136, the Borough accepted and awarded a contract for Professional Services for Remediation Testing and Monitoring at Veterans Field to First Environment Inc., with offices located at 91 Fulton Street, Boonton, New Jersey, 07005; and

WHEREAS, said contract was subsequently amended by Resolution No. 2014-174, adopted on July 14, 2014; and

WHEREAS, the Borough has received and reviewed a Proposal submitted by First Environment dated July 18, 2014 in the amount of \$19,150.00, expanding the scope of services to be performed by First Environment, a copy of which is attached hereto; and

WHEREAS, the scope of work set forth in the July 18, 2014 Proposal includes additional testing to better delineate the scope of the remediation work to be performed at Veterans Field; and

WHEREAS, I, Joseph Iannaconi, the Borough's Chief Financial Officer hereby certifies that funds have been appropriated and are available for this purpose through Ordinance No. 1474

JOSEPH IANNACONI, JR., C.F.O.

NOW, THEREOF, BE IT RESOLVED by the Mayor and Council of the Borough of Edgewater that the Professional Services Proposal submitted by First Environment to expand their services as outlined in their proposal dated July 18, 2014, in the amount of \$19,150.00 is hereby accepted.

BE IT FURTHER RESOLVED that the Mayor and Borough Clerk are hereby authorized to execute a contract to effectuate the purposes of this Resolution.

BE IT FURTHER RESOLVED that the Borough Clerk shall publish notice of this contract amendment.

No questions or comments.

All council members present voted aye. None opposed. None abstained.

**RESOLUTION
2014-190**

July 23, 2014

INTRODUCED: Councilman Henwood

SECOND: Councilman Vidal

First Environment Technical Support for Veterans Field - Amendment to Scope of Work to Perform Additional Testing Based on July 21, 2014 Proposal

WHEREAS, the Borough of Edgewater required the services of a professional Environmental Engineer to address the requirement for the remediation of the contaminated soils/historic fill detected at Veteran's field and for litigation support services in connection therewith; and

WHEREAS, on May 19, 2014, by Resolution 2014-136, the Borough accepted and awarded a contract for Professional Services for Remediation Testing and Monitoring at Veterans Field to First Environment Inc., with offices located at 91 Fulton Street, Boonton, New Jersey, 07005; and

WHEREAS, said contract was subsequently amended by Resolution No. 2014-174, adopted on July 14, 2014; and

WHEREAS, the Borough has received and reviewed a Proposal submitted by First Environment dated July 21, 2014 in the amount of \$19,400.00, expanding the scope of services to be performed by First Environment, a copy of which is attached hereto; and

WHEREAS, the scope of work set forth in the July 21, 2014 Proposal includes additional testing to better delineate the scope of the remediation work to be performed at Veterans Field; and

WHEREAS, I, Joseph Iannaconi, the Borough's Chief Financial Officer hereby certifies that funds have been appropriated and are available for this purpose through Ordinance No. 1474

JOSEPH IANNACONI, JR., C.F.O.

NOW, THEREOF, BE IT RESOLVED by the Mayor and Council of the Borough of Edgewater that the Professional Services Proposal submitted by First Environment to expand their services as outlined in their proposal dated July 21, 2014, in the amount of \$19,400.00 is hereby accepted.

BE IT FURTHER RESOLVED that the Mayor and Borough Clerk are hereby authorized to execute a contract to effectuate the purposes of this Resolution.

BE IT FURTHER RESOLVED that the Borough Clerk shall publish notice of this contract amendment in the official newspaper of the Borough in accordance with N.J.S.A. 40A:11-5.

No questions or comments.

All council members present voted aye. None opposed. No abstentions.

MOTION

July 23, 2014

INTRODUCED: Councilman Henwood

SECOND: Councilman Vidal

Motion to adjourn.

On roll call the vote was as follows:

Councilman Henwood	Yes
Councilman Doran	Yes
Councilman Monte	Yes
Councilman Vidal	Yes
Councilman Jordan	Absent
Councilman Bartolomeo	Yes

Respectfully,

Barbara Rae, RMC, CMC
Borough Clerk

.APPROVED: September 15, 2014