

**The minutes of the Special Meeting of the Township Council of the Township of Saddle Brook held on June 27, 2017 at 7:00 PM at the Municipal Building, 93 Market Street, Saddle Brook, NJ.**

Council President D'Arminio called the meeting to order.

The Township Clerk called the roll:

Councilman Cimiluca – present  
Councilwoman Mazzer – present  
Councilman Gierak - present  
Councilman Accomando – present  
Council President D'Arminio – present

Mayor White – present  
Mr. Suarez, Twp. Attorney – present

Council President D'Arminio asked everyone to please rise for the salute to the flag.

Council President D'Arminio announced that adequate notice of this meeting has been sent to all Council members by police messenger on June 23, 2017 and to all legal newspapers in accordance with the provisions of the Open Public Meetings Act, Chapter 231, P.L. 1975.

The Township Clerk announced that the public is hereby advised that any statements made during the meeting of the Township Council of the Township of Saddle Brook may not be privileged or protected and that persons or entities who take issue with such comments or are offended by same, may, and have in the past, sought legal redress through the courts.

Any member of the public who addresses the Council speaks for themselves and not for the Council.

Council President D'Arminio asked for a motion to open the meeting to the public.

Motion: Councilwoman Mazzer    Second: Councilman Accomando

Councilman Cimiluca - yes  
Councilwoman Mazzer – yes  
Councilman Gierak – yes  
Councilman Accomando - yes  
Council President D'Arminio – yes

Mr. Suarez announced that one of the matters to be discussed at this meeting involves the issue with the member of the Zoning Board. He asked for clarification that the man sitting to Mr. Ratajczak's right was his attorney. Mr. Ratajczak said it was.

Mr. Suarez suggested with regard to this portion of the meeting, they discuss this issue and asked Mr. Ratajczak's attorney to speak from the podium.

Mr. George Cotz identified himself as counsel for Mr. Ratajczak. Mr. Suarez said Mr. Ratajczak had opted for a hearing with regard to the issue of removal from the Zoning Board. He suggested the Council make their comments at this time and have Mr. Ratajczak make his comments.

Mr. Cotz noted the meeting agenda listed a closed session, and Mr. Ratajczak would like the proceedings to be an open session. Mr. Suarez said that is correct, it is open. The only thing that would be in the executive session would be after the hearing, he would recommend to adjourn into executive session with regard to deliberation and then return to open session and make a decision one way or another.

Mr. Cotz said he wanted to be sure tonight's proceeding was being recorded. Mr. Suarez said it was. Mr. Cotz said he wanted to be sure the Township was aware of its obligation to preserve that recording in case of future litigation. Mr. Suarez said under the Open Public Meetings Act it was being preserved and the Township Clerk was making sure it was being recorded properly.

Mr. Cotz said he expected to call Mr. Suarez as a witness on his client's behalf and therefore did not believe Mr. Suarez could act as legal advisor to the Township Committee or Township Council in this matter.

Mr. Suarez said if that were the case it would have been a good idea to let him know earlier that this would be an issue. He said if Mr. Cotz wanted to ask him any questions he did not believe there would be any conflict. He could truthfully answer any questions, but he was here to serve as Council to the Township of Saddle Brook. He suggested if Mr. Cotz wanted to proceed with regard to the hearing, as they discussed on Friday, we are ready to go. Mr. Cotz said they were ready.

Mr. Cotz said he would like to hear the case against Mr. Ratajczak.

Mr. Suarez said your opting for the hearing permits you to do what you believe necessary with regard to giving the Council information, but in terms of the Township's point of view, notice was sent to Mr. Ratajczak on April 24<sup>th</sup> regarding the specific issues and I believe the Council has this information. It was an inappropriate transgression of the Zoning Board's jurisdictional limitations.

Mr. Cotz interrupted and said they had read the letter of the 24<sup>th</sup>, but he did not have the report of the Township's Special Council which that letter was based on. These are general allegations. There's no particulars here. Mr. Ratajczak can't possibly respond to these charges because he doesn't know what the facts are.

Mr. Suarez said that document is subject to Attorney-client privilege.

Mr. Cotz asked how can you sit here and pretend you're giving my client due process when everybody up there has read this report that has specific factual allegations, and you're going to decide if my client violated these things or did these violations and he hasn't seen them? He doesn't know what it is he's alleged to have done. That's fundamental denial of his due process rights. It's the most ridiculous thing I've ever heard. If you won't share this with us, then this whole proceeding is a mockery. It's like going to trial where you haven't been given an indictment or any discovery by the state. The state knows what you did, and the state tells the jury, but you're out of the room, and you don't get to cross examine anybody.

Mr. Suarez said Mr. Cotz and Mr. Ratajczak had been provided with the information and if they wanted Mr. Suarez to go through it. This is not a criminal proceeding. This has to do with the Township and a municipal governing issue. Again, there was separate counsel that came in, issued a report that's subject to attorney-client privilege and will not be turned over at this point. If you want to move ahead with this, I suggest you do so. We don't want to waste the public and the Township's time on this. Mr. Suarez then suggested they provide whatever testimony they would like so we can move forward.

Mr. Cotz said an investigation is never subject to attorney-client privilege if you're making a decision based on it. I don't think you can stand with that. You say that my client has been given these charges, but all he's been given is a letter which puts in broad terms what conduct he is alleged to have done. By directing the Township Zoning Officer to investigate and issue citations – who are they? Which ones? To influence and direct the Zoning Officer's enforcement activities. When? Under what circumstances? I believe, if I'm correct, there was at least one occasion where you and the Mayor and the building inspector met with Mr. Ratajczak and he complained that there was an activity in town at Mazzer's Plumbing that was violating the zoning ordinance, and the building inspector said that he hadn't done anything about it, and you directed the building inspector to go and issue a summons. Isn't that true? You said you would answer my questions.

Mr. Suarez asked if Mr. Cotz was proceeding with the hearing. Mr. Cotz said no, he was trying to get to the point where his client knows the charges. He asked if the incident with Mazzer's Plumbing was one of the incidents he was accused of and said if it is, shouldn't Mrs. Mazzer be excused from this proceeding?

Mr. Suarez said if we're going to move forward with regard to this, you're entitled, and Mr. Ratajczak is entitled, to present what you would like the Council to consider.

Mr. Cotz said if you're not going to share the report with us, could I have a few minutes to consult with him outside? I anticipated that you would be presenting a case first that we could respond to.

Mr. Suarez said no. The fact is, under the Municipal Land Use Law, we're affording Mr. Ratajczak the ability to present information that he would like the Council to consider, but there is nothing that talks about a trial with examination, direct, cross examination. I suggest we move forward with regard to this. I don't want to tell you what to do regarding your job.

Mr. Cotz asked if he could consult with his client for a few minutes. Mr. Suarez asked if the Council had issue with a brief consult, and Council President D'Arminio said no.

Mr. Cotz and Mr. Ratajczak stepped out at this time.

When they returned Mr. Suarez said being that Mr. Cotz brought up Mazzer Plumbing, Councilwoman Mazzer would step down and recuse herself from the proceedings.

Mr. Cotz said his client was willing to let them decide this without him putting on any kind of affirmative case for the simple reason that he doesn't know what allegations he has to refute. Mr. Cotz said I don't believe my client is without due process rights here. He holds a statutory office as a member of the Zoning Board of Adjustment, and that statutory office entitles him to both substantive and procedural due process before he's removed from that office, and a hearing like this where he hasn't been given the specifics of the charges against him is a fundamental denial of his rights of due process. That being said, we have nothing further to add.

Mr. Suarez said Mr. Ratajczak was given the opportunity to go to an ethics training class, and this proceeding would not have occurred. Why didn't he go to the class? The township was going to pay for it.

Mr. Cotz said I don't believe he ever received your letter, and I don't know that he would have gone at your direction. I don't think he recognizes your authority to direct him, out of all the members of the Zoning Board, to attend an ethics class as a form of punishment when he hasn't been given an opportunity to be heard. Again that goes back to your April 24<sup>th</sup> letter where you accuse him of things and basically say, we know you're guilty of this, go to an ethics class, without first giving him an opportunity to be heard on those accusations.

Mr. Suarez said that letter was sent certified and regular mail. The certified was not picked up, and the regular mail did not come back.

Mr. Suarez suggested going into executive session for deliberation, Ms. Mazzer would be recused, and Mr. Recibo from the office of Matt Giacobbe was in attendance as attorney, and there is attorney client privilege.

Mr. Joseph Camilleri of 289 Albany Street said he was on the Council, so he didn't know how much he could speak, but he could speak for himself and things that have taken place.

Mr. Suarez cautioned everyone not to disclose anything that was discussed in executive session that involved attorney-client. He said Mr. Camilleri could speak

for himself, obviously. Unless the Council is going to waive attorney-client privilege, and he suggested they not, Mr. Camilleri certainly had the right to speak.

Mr. Camilleri said he had a lot to say, but a lot of it was closed session. Mr. Suarez said he would be protecting the Township and himself. Mr. Camilleri asked what he was protecting himself from. Mr. Suarez said from violating ethics rules. Mr. Camilleri asked what happens if he violates an ethics rule.

Mr. Cotz said he thought Mr. Suarez was trying to intimidate Mr. Camilleri. Mr. Suarez said he was not at all, Mr. Camilleri had the right to speak.

Mr. Cotz said as far as this business about attorney-client privilege, I'm sure there are closed session meetings when there is no attorney present, and if that's the case, then there is no privilege.

Mr. Suarez deemed Mr. Cotz out of order since Mr. Camilleri was speaking.

Mr. Camilleri said he just wanted to know the penalty if he said something wrong. Mr. Suarez explained if Mr. Camilleri said something that was part of an executive session discussion, it might be a violation of the state ethics laws. Mr. Camilleri asked what would happen to him. Mr. Suarez said if someone filed a complaint, they would make a decision one way or another. He said he could not say.

Mr. Camilleri said he thought with regards to the executive session he was speaking of, once it was out in the public and it passed that point of executive session, it could be spoken upon in the public. He asked if he was right or wrong. Mr. Suarez said no, the discussion can be addressed in the open session so long as the matter is completed, and this is still an open issue. Once the matter is completed, and the Council has said there may be litigation involved.

Mr. Camilleri said that was enough, he would sit down.

Mr. Emil Sudol of Van Luyn Terrace said he knew they had okayed \$5,000 to pay for the attorney for this. He asked if they were still at the \$5,000 mark or above that. He asked how far this would go and said he had never seen anything like this. He said he has served on Planning Boards and Zoning Boards, and he had never seen a township or city go after a Zoning Board Member.

Mr. Sudol said he didn't know what was going on here, but it didn't smell right. He said it seems like you people all made up your minds already and Mr. Ratajczak can't find out what he's been accused of doing. I don't understand how you can do that. The amount of money we're spending, taxpayer dollars here. Can't you just wait until the guy's term is over and not re-appoint him? Don't we have another current Zoning Board member that purchased property here in the Township and opened a business here illegally? Didn't that happen? Is that person being investigated? Wasn't he fined? Is this whole thing going to happen again with him?

Mr. Suarez asked Mr. Sudol to just stick to the issue of Mr. Ratajczak. Mr. Sudol said it's all part of the same thing.

Mr. Suarez said Mr. Sudol has a right to mention the issue, but the Council doesn't have to answer.

Mr. Sudol said I just think this whole issue here doesn't smell right. I always try to do the right thing. I think that's very important, and I think everybody here, a lot of people got dragged into an ugly situation that has just exploded. I'm against all this stuff, that's all I have to say.

Hearing no one else, Council President D'Arminio asked for a motion to close the meeting to the public.

Motion: Councilman Cimiluca

Second: Councilman Gierek

Councilman Cimiluca - yes  
Councilwoman Mazzer – yes  
Councilman Gierek - yes  
Councilman Accomando - yes  
Council President D’Arminio – yes

**RESOLUTIONS**

**TOWNSHIP OF SADDLE BROOK  
RESOLUTION**

**CR# 617-161**

**BE IT RESOLVED** by the Township Council of the Township of Saddle Brook County of Bergen, State of New Jersey that the following licenses be renewed for the year 2017-2018 and the Division of Alcoholic Beverage Control be so notified.

**PLENARY RETAIL CONSUMPTION LICENSES**

<b><u>STATE LICENSE NO. AMOUNT</u></b>	<b><u>NAME</u></b>
0257-33-003-008 \$1275.00	Bennigan’s Saddle Brook, LLC 405 North Midland Avenue Saddle Brook, NJ 07663

**PLENARY RETAIL DISTRIBUTION**

0257-44-008-008 \$770.00	All American Beverage c/o Jayprada Varma 266 Garibaldi Avenue, Unit #9 Lodi, NJ 07644
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**HOTEL LICENSE**

0257-36-021-001 \$2000.00	Saddle Brook Operations, LLC Crowne Plaza 50 Kenny Place Saddle Brook, NJ 07663
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Motion: Councilman Cimiluca

Second: Councilman Accomando

Roll Call:

Councilman Cimiluca - yes  
Councilwoman Mazzer - yes  
Councilman Gierek - yes  
Councilman Accomando - yes  
Council President D’Arminio - yes

Council President D’Arminio asked for a motion to go into closed session at 7:20 PM.

**TOWNSHIP OF SADDLE BROOK  
RESOLUTION**

**CR# 617-162**

**WHEREAS**, the Township Council of the Township of Saddle Brook desires to meet for the purpose of a closed session to discuss the removal of a Zoning Board member, and

**WHEREAS**, the Open Public Meetings Act does make an exception and allows a public body to hold a closed session to discuss these items,

**NOW THEREFORE BE IT RESOLVED** by the Township Council of the Township of Saddle Brook that the closed session to take place on June 27, 2017 at 7:00 PM or as soon thereafter as the matter can be reached at the Municipal Building be closed to the public and the press and that the results of the discussion at the closed session will be released to the public when the reasons for discussing and acting on it in closed session no longer exist.

Motion: Councilman Cimiluca

Second: Councilman Gierek

Roll Call:

Councilman Cimiluca - yes  
Councilwoman Mazzer - yes  
Councilman Gierek - yes  
Councilman Accomando - yes  
Council President D'Arminio - yes

Council President D'Arminio asked for a motion to come out of closed session at 9:07 PM.

Motion: Councilman Accomando

Second: Councilman Gierek

Roll Call:

Councilman Cimiluca - yes  
Councilwoman Mazzer – yes  
Councilman Gierek - yes  
Councilman Accomando - yes  
Council President D'Arminio – yes

Mr. Suarez announced the public hearing was closed. The Council is reserving its right with regard to making a determination at a future date.

Council President D'Arminio asked for a motion to adjourn.

Motion: Councilman Gierek

Second: Councilman Cimiluca

Councilman Cimiluca - yes  
Councilwoman Mazzer - yes  
Councilman Accomando - yes  
Council President D'Arminio – yes

The meeting was adjourned at 9:09 PM.

Respectfully submitted,

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Peter Lo Dico, R.M.C. CMC  
Township Clerk

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Karen D'Arminio  
Council President

Approved: July 13, 2017