

**BOROUGH OF HATBORO  
SPECIAL MEETING  
MONDAY, MAY 17, 2010**

**PRESENT** – President Reymer, Vice President Guerst, Councilpersons Fleming, LaSorsa, Ostrander, Tompkins and Zygmunt, Mayor Hawkes and Borough Manager Ryan.

**ABSENT** – None.

**CALL TO ORDER** – President Reymer called the May 17, 2010 Special Meeting of Borough Council to order at 7:02 p.m..

**INVOCATION** – The Invocation was led by Mayor Hawkes.

**PLEDGE OF ALLIGENCE** – The Pledge of Allegiance was led by Council.

**ADMINISTRATION** – President Reymer read a statement outlining events leading to, and including, the resignation of Solicitor Pionzio, and the scheduling of this Special Meeting.

President Reymer noted Council had invited five law firms to interview for the position of Borough Solicitor in January 2010, and subsequently interviewed three firms. President Reymer noted the unexpected resignation of Solicitor Pionzio requires the Borough to fill this vacant post as soon as possible.

There was general discussion regarding the scheduling of this Special Meeting.

Councilwoman Guerst motioned to recess the meeting, second by Councilwoman Ostrander. This motion to recess was not acted upon. President Reymer, Vice President Guerst and Councilpersons Fleming and Ostrander exited the meeting room, then returned. The meeting continued.

Councilman Zygmunt commented on the scheduling of this Special Meeting. Councilman Zygmunt noted that, based on information received, he did not believe Council would be appointing a Solicitor at this evening's meeting. Councilman Zygmunt stated he believed an appointment would be considered at the May 24 Council Meeting.

Councilman Zygmunt motioned to adjourn the meeting, and to defer consideration of the appointment of Borough Solicitor to the May 24 Council Meeting, second by Councilman LaSorsa.

On the motion:	LaSorsa	AYE	Fleming	NAY
	Tompkins	AYE	Guerst	NAY
	Zygmunt	AYE	Ostrander	NAY
			Reymer	NAY

Motion failed to carry, 3-4.

Councilman Tompkins noted his objection to Council's consideration of the appointment of the Borough Solicitor at this evening's meeting. Councilman Tompkins stated Council should defer this decision to a later date, noting Solicitor Pionzio's firm had agreed to continue to serve as Borough Solicitor until a successor was hired.

Councilman Tompkins stated the Borough should investigate Solicitor Pionzio's allegations the Borough Manager was practicing law without a license.

Councilman Tompkins noted he did not believe Council would be appointing a Solicitor at this evening's meeting based upon information he had received. Councilman Tompkins noted his disappointment at the loss of Solicitor Pionzio.

Councilwoman Guerst agreed the Borough should investigate Solicitor Pionzio's allegations the Borough Manager was practicing law without a license. Councilwoman Guerst noted the next Borough Solicitor should be charged with this task.

Councilman LaSorsa stated Council should not appoint a Borough Solicitor at this evening's meeting. Councilman LaSorsa expressed concern as to Solicitor Pionzio's allegations the Borough Manager was practicing law without a license.

Councilman LaSorsa inquired as to when the Borough established a new policy that permits the Borough Manager to draft resolutions and other documents. Councilwoman Guerst stated this was not a new policy, and noted this was the practice of previous Borough Managers.

Mayor Hawkes recommended Council not appoint a Borough Solicitor at this evening's meeting. Mayor Hawkes recommended Council begin a review of Solicitor Pionzio's allegations the Borough Manager was practicing law without a license.

Councilman Zygmunt stated Council should conduct additional interviews for the position of Borough Solicitor. Councilman Zygmunt noted the Borough has the time to conduct additional interviews in that Solicitor Pionzio's firm had agreed to continue to serve as Borough Solicitor until a successor was hired.

Councilman Zygmunt asked if Councilwoman Ostrander could vote to appoint a law firm if she had past dealings with same. Councilman Zygmunt asked if this law firm could be considered for appointment if it had past dealings with a Member.

Councilman Zygmunt inquired as to letters of interest for the Borough Solicitor position received. Borough Manager Ryan stated three or four letters of interest had been received as of this evening's meeting.

Borough Manager Ryan confirmed that he did not contact Solicitor Pionzio as to this evening's meeting. Borough Manager Ryan confirmed he had no contact with Solicitor Pionzio subsequent her resignation at the May 10 Committee Meeting.

Discussion was had regarding the tone of debate. President Reymer requested Mr. Eric Zygmunt to exit the meeting. Mr. Zygmunt exited the meeting at this time.

Councilwoman Ostrander commented on her past dealings with an attorney at the firm Friedman Schuman. Councilwoman Ostrander noted she deems the legal advice received to be de minimis, and stated such does not create a conflict of interest as to the appointment of a Borough Solicitor. Councilman Tompkins stated he believes a conflict of interest exists in this regard.

It was noted that Michael Savona, attorney with Friedman Schuman, was present at this evening's meeting.

Mr. Zygmunt asked if the Borough had forwarded any information to Friedman Schuman. Borough Manager Ryan confirmed no information had been forwarded to this firm.

Councilman Tompkins expressed concern this evening's Special Meeting was scheduled after three Members had responded they could not attend.

President Reymer noted she may have been confused as to the meeting date, but this scheduling was subsequently clarified. There was general discussion regarding the advertisement of this evening's Special Meeting.

### **PRIVILEGE OF THE FLOOR, AGENDA ITEMS**

- Mrs. Sandra Zygmunt asked if President Reymer was recording this evening's Special Meeting. President Reymer confirmed she was not recording this meeting. Mrs. Zygmunt stated she does not believe the Borough can proceed without the Borough Solicitor in attendance.

President Reymer noted Solicitor Pionzio had resigned at the May 10 Committee Meeting, and the Borough's best interests would be served in appointing her successor. Councilwoman Fleming stated the next Borough Solicitor can provide an impartial assessment of Solicitor Pionzio's allegations the Borough Manager was practicing law without a license. Councilman Tompkins agreed that an attorney not affiliated with Solicitor Pionzio's law firm is needed to provide this assessment.

Councilwoman Fleming noted Council had considered the appointment of a Borough Solicitor throughout the previous three months. Councilwoman Fleming noted Members had an opportunity to request additional firms be interviewed during this period.

Councilman Tompkins stated legal issues discussed at this evening's Special Meeting warranted the attendance of the Borough Solicitor, and recommended a decision to appoint a Borough Solicitor be deferred to the May 24 Council Meeting.

- Mr. Preston stated that, in lieu of resigning, the Borough Solicitor should have remained to address the problem alleged. He recommended Council appoint a new Borough Solicitor at this evening's Special Meeting.
- Mr. Bruce Hart commented on Solicitor Pionzio's allegations the Borough Manager was practicing law without a license. Councilman LaSorsa inquired as to when the Borough established a new policy that permits the Borough Manager to draft resolutions and other documents. President Reymer stated this was not a new policy, and noted this allegation will be reviewed.
- Mr. Bob Ersham inquired as to whether the Borough Manager had drafted resolutions and other documents in his previous position. Borough Manager Ryan confirmed he had drafted resolutions and other documents in his previous position. Mr. Ersham inquired as to whether the Borough Manager had been sued for drafting resolutions and other documents in his previous position. Borough Manager Ryan confirmed he had not been sued as to his drafting resolutions and other documents in his previous position.
- Mrs. Zygmunt recommended Borough Council, as a whole, review discussions had at this evening's Special Meeting with Solicitor Pionzio.

Councilman Tompkins motioned to adjourn the meeting, second by Councilman LaSorsa.

On the motion:	LaSorsa	AYE	Fleming	NAY
	Tompkins	AYE	Guenst	NAY
	Zygmont	AYE	Ostrander	NAY
			Reymer	NAY

Motion failed to carry, 3-4.

Councilman Tompkins stated this evening’s Special Meeting is flawed, and recommended a vote on this matter not be taken until the legal issues discussed have been addressed by the Borough Solicitor.

**BOROUGH SOLICITOR** – Councilwoman Ostrander motioned to accept the resignation of Solicitor Pionzio, conditioned upon the appointment of another to serve in the position of Borough Solicitor, second by Councilwoman Fleming.

On the motion:	Fleming	AYE	LaSorsa	NAY
	Guenst	AYE	Tompkins	NAY
	Ostrander	AYE	Zygmont	NAY
	Reymer	AYE		

Motion carried, 4-3.

Councilwoman Guenst motioned to appoint Friedman Schuman to the position of Hatboro Borough Solicitor, for a term to expire at the first voting meeting in January 2011 and at the pleasure of Borough Council, and at the rate of \$135.00 per hour, second by Councilwoman Fleming.

Councilman Tompkins expressed concern that he did not have a second interview opportunity with this law firm. Councilman Tompkins expressed concern with this law firm’s political activities, and inquired as to whether this firm had contributed to political candidates and/or organizations in the Borough. Councilwoman Ostrander stated she does not know of such contributions being made to Democrat candidates and/or organizations. Councilman Tompkins stated he does not know of such contributions being made to Republican candidates and/or organizations.

Council Tompkins requested an opportunity to interview the candidate for Borough Solicitor. Councilwoman Guenst noted Councilman Tompkins should have seen to this interview in past weeks.

Councilman LaSorsa asked if President Reymer and Councilwoman Ostrander will abstain from a vote to appoint a Borough Solicitor. President Reymer and Councilwoman Ostrander stated neither has a conflict of interest in this matter, and confirmed they will not abstain from a vote to appoint a Borough Solicitor.

On the motion:	Fleming	AYE	LaSorsa	NAY
	Guenst	AYE	Tompkins	NAY
	Ostrander	AYE	Zygmont	NAY
	Reymer	AYE		

Motion carried, 4-3.

Solicitor Savona was seated at the Staff and Consultant table.

Solicitor Savona provided general comment on the unauthorized practice of law. Solicitor Savona noted he had served in positions charged with reviewing such allegations at both the state and county levels. Solicitor Savona stated that while he found nothing discussed at this evening's Special Meeting to constitute the authorized practice of law, he will fully review this matter and report to Council on same.

Councilman Zygmunt stated he did not believe criminal activity occurred, and recommended Council initiate a review of Solicitor Pionzio's allegations the Borough Manager was practicing law without a license.

Councilman Zygmunt inquired as to whom the Borough Solicitor reports. Solicitor Savona confirmed this position reports to Borough Council, as required by the Borough Code.

Councilman Zygmunt inquired as to whom directs consultants to attend meetings. Solicitor Savona noted this is not addressed unless memorialized by act of Council.

General discussion was had with regard to the Borough Engineer's attendance at public meetings. It was agreed the Borough can decrease consultant fees for meetings at which a consultant is not required to attend. It was agreed Borough Manager Ryan will provide Council with advance notification that a consultant has been excused from meeting attendance.

Councilman Tompkins welcomed Solicitor Savona to his new position, and stated his vote against this appointment reflected not the appointee, but only the procedure by which the appointment had been made.

Councilman Tompkins inquired as to the definition of "de minimis". Solicitor Savona noted this constituted an amount less than five hundred dollars, as determined by the State Ethics Commission.

As to Solicitor Pionzio's allegations the Borough Manager was practicing law without a license, President Reymer stated she does not believe Borough Manager Ryan acted inappropriately. President Reymer noted that, given Borough Manager Ryan's experience and past positions, he may tend to rely on consultants less than previous Borough Managers.

### **PRIVILEGE OF THE FLOOR**

- Mrs. Zygmunt stated she disagrees with Council's decision made at this evening's meeting.
- Ms. Cassandra Zygmunt and Mr. Tom Harbaugh apologized to the Mayor for comments made by a Council Member at this evening's meeting.

**ADJOURNMENT** – There being no additional business, this Special Meeting adjourned at 8:50 p.m..