

Borough of Palisades Park
Special Meeting of the Mayor and Council
August 1, 2023

Mayor Chong Paul Kim opened the Special Meeting at 7:08 P.M.

STATEMENT:

This is a Special Meeting of the Mayor and Council, and notice was given as follows:

1. Notice was filed July 28, 2023 with The Record & Newark Star Ledger, both official newspapers of the Borough.
2. Notice was posted on the Bulletin Board
3. Copy is preserved in the Clerk's Office.

PLEDGE OF ALLEGIANCE & MOMENT OF SILENCE FOR LIEUTENANT GOVERNOR SHEILA OLIVER:

ROLL CALL:

| | | |
|---------------|---------|---------|
| Mayor | Kim | Present |
| Councilperson | Jang | Present |
| " | Kim | Present |
| " | Min | Present |
| " | Park | Present |
| " | Pirrera | Present |
| " | Vietri | Present |

| | | |
|-----------------------|-----------------------|---------|
| Borough Attorney | Michael Collins, Esq. | Present |
| Borough Administrator | David Lorenzo | Absent |

Mayor Kim asked for a motion to enter Executive Session.

Councilman Min made a motion to adopt Off Consent Agenda Resolution #2023-180. Councilman Park seconded. All present in favor by voice vote; none opposed.

OFF CONSENT AGENDA:

RESOLUTION 2023-180 Authorization to Enter Executive Session

WHEREAS, the Open Public Meetings Act provides that the Mayor and Council may enter into Executive Session to discuss matters that are of a confidential nature, pursuant to N.J.S.A. 10:4-12; and

WHEREAS, it is recommended by the Borough Attorney and Borough Administrator that the Mayor and Council enter into Executive Session to discuss matters set forth hereinafter which are permissible for discussion in Executive Session.

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Palisades Park, County of Bergen, State of New Jersey that the governing body shall enter into Executive Session to discuss the following matters:

Legal Issues, Litigation, Potential Litigation, Contract Negotiation, Attorney-Client Privilege – N.J.S.A. 10:4-12(b)(7)

Risk Management/Borough Hall – ATOD August 2023

Personnel – N.J.S.A. 10:4-12(b)(8)

Borough of Palisades Park v. Espino – ATOD August 2023

BE IT FURTHER RESOLVED that the minutes of the Executive Session shall be released to the public when the need for confidentiality no longer exists, with an estimate of the circumstances and/or time for public disclosure provided in the above-listed anticipated times of decision (“ATOD”).

At approximately 7:09 P.M., the Mayor and Council proceeded with the Executive Session inside the Mayor's Office.

At approximately 8:32 P.M., Mayor and Council returned to the dais and Councilwoman Pirrera made a motion to close the Executive Session and reopen the Special Meeting. Councilman Kim seconded. All present in favor by voice vote; none opposed.

Councilman Vietri made a motion to keep Chief Anthony Espino and Captain John Gasparovich in their current positions. Councilman Kim seconded.

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The Borough Attorney, Michael Collins, stated that there was discussion in Closed Session and the motion that Councilman Vietri was proposing was to ratify the actions that were taken at the December 22, 2022 meeting, which were invalidated by the Superior Court. The actions were approving Anthony Espino as the Chief of Police, Resolution #2022-293 approving a contract for Anthony Espino as Chief of Police, Resolution #2022-294 approving a Settlement Agreement and Release for Anthony Espino and approving John Gasparovich as the Captain of the Police Department. As background, the Governing Body initiated litigation in Superior Court asking a Judge to make a determination whether the actions taken on December 22, 2022 were valid because they were adopted on a 2-0-1 vote, in which two Councilmembers voted yes, one Councilmember was recused. After the decision was heard, the Judge made a decision which held that three affirmative votes were required for the actions to be taken and as a result, she declared them void from the moment they were purportedly adopted. The Resolution that was put forward by Councilman Vietri would ratify those actions and if they were adopted tonight with the sufficient number of votes, this would allow for them to take effect as if they were approved valid in the first instance. The litigation was initiated in order to address the procedures that occurred and to seek confirmation from the court whether the two “yes” votes were in fact correct. Councilman Vietri confirmed that this was the motion that he put forward.

Mayor Kim said that after Palisades Park won the case concerning the unlawful promotions, there was a motion on the floor that was recommending the Council to vote saying that they would consider reinstate the positions after it has been found that it was unlawful. Councilwoman Jang said that they made a good decision last December, because they went through interviews, records and each person’s ability to carry out the position. But because two votes on the important matter was not valid; this was what the Council learned. There was the same respect and trust, and the decision was made in good faith. Councilman Vietri stated that during the course of the litigation between the Chief and Captain, it was not going after the individuals. It was going after the process and the way it was done so that in the future, someone else can promote with four votes. Councilman Kim echoed Councilman Vietri and added that this mistake was not the Chief or Captain’s fault. Mr. Collins stated that the Judge’s decision was based upon 40A:60-3, there was a provision that personnel appointments cannot be made without three affirmative votes. The Borough Ordinance followed that Statute. An “officer” was more of an official of the Borough, not the title of police ranking.

The Mayor asked if job recommendations would come to the Mayor, and whether it would be the Mayor’s decision to put it into a Resolution or not with jobs. Mr. Collins stated that the Mayor typically has the nominating power, and this could be discussed in Executive Session. However, when a position was vacant for more than 30 days, this Resolution would rest with the Council. Based upon the Judge’s decision and the appointments being void and vacant for more than 30 days, with where they were in the calendar (July), the Council could now act. The Mayor said that they weren’t decided until what 30 days were until the Judge’s decision. Mr. Collins said that the decision was based upon the situation at that point. The Mayor sought clarification about when the 30 days began. Mr. Collins stated that he was not in a position to offer a legal dissertation. The Mayor asked who could present this. Mr. Collins stated that there was a motion and second, and his position was that there needed to be a vote taken under Robert’s Rules of Order. Mayor asked if a vote needed to be taken even when this was concerning a job that he should be recommending. Mr. Collins stated that based on the timeline and the Judge’s decision, the positions were vacant. The Council statutorily had the power to act after a vacancy in excess of 30 days.

The motion carried on a roll call vote and was recorded as follows:

Councilwoman Jang: Yes
Councilman Kim: Yes

Councilman Min stated that when the action was first taken, he was not on the Council.

Councilman Min: Abstain
Councilman Park: Yes
Councilwoman Pirrera: Recused
Councilman Vietri: Yes

COUNCIL REPORTS:

Councilman Min recommended Garden State Environmental to submit a proposal with the breakdown of the scope of work to all of the Councilmembers. The emails were on the website.

Councilwoman Jang had no report.

Councilwoman Pirrera had no report.

Councilman Kim had no report.

Councilman Vietri had no report.

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Councilman Park had no report.

PUBLIC PARTICIPATION:

Councilwoman Jang made a motion to open to the public. Councilwoman Pirrera seconded. The motion carried. All present in favor by voice vote; none opposed.

At approximately 8:45 P.M., Councilwoman Pirrera left the dais and exited the Special Meeting.

A resident from 110 E. Harriet Ave stated that she had sent an email on July 27th to the Governing Body. She said that her neighbor was parking illegally and renting out rooms to multiple people. She suspected that there were about 20-30 people living in the home. She also stated that people were dropping off children like a daycare. There were parties held on the weekend. The trash was coming over to her house. She stated that it was a dangerous situation when her grandchildren were visiting. Mayor Kim asked what she had done so far because he remembered going to the Building Department. The Mayor called Carter, the Prosecutor. Mr. Collins stated that if there were tickets issued, then the Prosecutor would have the ability to prosecute those. If tickets haven't been issued, this should be handed over to Code Enforcement. The Prosecutor stated that he was working on the case. Mayor Kim stated that he would call the Prosecutor and ask about the status of the case. The resident asked that the area should be fenced, and there should be no illegal parking allowed.

Councilman Kim made a motion to close to the public. Councilman Vietri seconded. The motion carried. All present in favor by voice vote; none opposed.

ADJOURNMENT:

There being no further business to come before the Mayor and Council, Councilman Min made a motion to adjourn. Councilman Vietri seconded. All present in favor by voice vote; none opposed.

Attest:



Gina S. Kim, RMC/CMC
Borough Clerk

**RESOLUTION
BOROUGH OF PALISADES PARK
BERGEN COUNTY, NJ**

| COUNCIL | MOTION | SECOND | YES | NO | ABSTAIN | ABSENT |
|---------|--------|--------|-----|----|---------|--------|
| Jang | | | X | | | |
| Kim | | | X | | | |
| Min | X | | X | | | |
| Park | | X | X | | | |
| Pirrer | | | X | | | |
| Vietri | | | X | | | |

NO. 2023-180
 DATE August 1, 2023
 Carried Defeated Tabled
 Approved on Consent Agenda

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WHEREAS, it is recommended by the Borough Attorney and Borough Administrator that the Mayor and Council enter into Executive Session to discuss matters set forth hereinafter which are permissible for discussion in Executive Session.

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Approved:

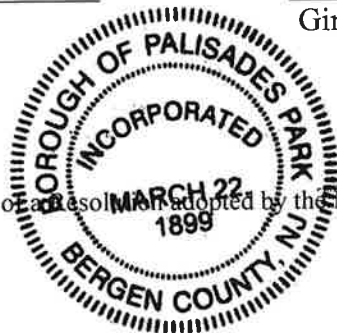


 Chong Paul Kim, Mayor

Attest:




 Gina S. Kim, Borough Clerk



I hereby certify that the above is a true copy of a resolution adopted by the Mayor and Council of the Borough of Palisades Park at a Special Meeting held on August 1, 2023.

SEAL



**RESOLUTION
BOROUGH OF PALISADES PARK
BERGEN COUNTY, NJ**

| COUNCIL | MOTION | SECOND | YES | NO | ABSTAIN | ABSENT |
|---------|--------|--------|-----|----|---------|--------|
| Jang | | | X | | | |
| Kim | | X | X | | | |
| Min | | | | | X | |
| Park | | | X | | | |
| Pirrera | | | | | RECUSED | |
| Vietri | X | | X | | | |

NO. 2023-181
 DATE August 1, 2023
 Carried Defeated Tabled
 Approved on Consent Agenda

RESOLUTION RATIFYING POLICE ACTIONS TAKEN ON DECEMBER 22, 2022

WHEREAS, on December 22, 2022, the governing body held a public meeting at which former Mayor Christopher Chung and Councilmembers Jang, Min, and Pirrera were present, and at which Councilmembers Kim, Park, and Vietri were absent; and

WHEREAS, at said meeting, the governing body purported to take the following actions (the “Police Actions”):

1. Appointing Anthony Espino as Chief of Police
2. Adopting Resolution 2022-293 approving a contract for Anthony Espino as Chief of Police
3. Adopting Resolution 2022-294 approving a settlement agreement and release for Anthony Espino
4. Approving John Gasparovich as Captain of the Palisades Police Department

; and

WHEREAS, the Police Actions each received a 2-0-1 vote, with Councilmembers Jang and Min voting affirmatively, and Councilmember Pirrera recusing due to legal conflict; and

WHEREAS, the current governing body disputed the validity of this vote on account of quorum and vote threshold concerns and authorized litigation to obtain judicial review of same, as provided in the matter of Borough of Palisades Park v. Espino, Superior Court of New Jersey, Docket No. BER-L-2467-23 (the “Lawsuit”); and

WHEREAS, in the Lawsuit, on July 25, 2023, the Hon. Christine A. Farrington, J.S.C., ret’d, t/a entered an order declaring the Police Actions to be void ab initio (the “Order”); and

WHEREAS, the governing body brought the Lawsuit to ensure that no precedent was established that would allow for public actions to be taken to appoint officers of the Borough with only two affirmative votes and/or through a quorum containing only the Mayor and two councilmembers eligible to participate present; and


WHEREAS, now that this precedent has been established, the current governing body has reviewed and determined that it is in the best interests of the Borough to ratify and adopt the Police Actions pursuant to a proper vote of the Borough Council; and

WHEREAS, because the Order declared the Police Actions void ab initio, there have existed vacancies in the positions of Chief of Police and Captain at minimum since December 22, 2022, thus allowing the Council to act upon same pursuant to N.J.S.A. 40A:60-6(d) to the extent applicable.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Palisades Park, as follows:


1. The foregoing recitals are hereby incorporated as if set forth at length.
2. The Police Actions are hereby ratified and approved, as if properly adopted by the governing body in the first instance, with full retroactive effect to December 22, 2022.
3. The Borough Attorney is hereby authorized and directed to take any and all steps reasonably necessary to effectuate the foregoing.
4. This resolution shall take effect immediately.

Approved:



Chong Paul Kim, Mayor

Attest:



Gina S. Kim, Borough Clerk

I hereby certify that the above is a true copy of a Resolution adopted by the Mayor and Council of the Borough of Palisades Park at a Special Meeting held on August 1, 2023.

SEAL

