

REGULAR MEETING

CITY COUNCIL

OCTOBER 13, 2009

7:00 P.M.

The Regular Meeting of the Long Branch City Council was held on Tuesday, October 13, 2009 at 7:00 p.m. in the Municipal Building, 344 Broadway, Long Branch, New Jersey.

PRESENT:

David G. Brown, Councilman; Anthony Giordano, Councilman; Brian Unger, Councilman; Dr. Mary Jane Celli, Council Vice-President; Michael DeStefano, Council President

OTHERS PRESENT:

Howard Woolley, Administrator; James G. Aaron, City Attorney; Ronald Mehlhorn, Finance Director; Irene A. Joline, RMC, City Clerk

ABSENT:

Mayor Adam Schneider

The pledge of allegiance was recited and certification was read into the record.

HEARING – CONTINUATION OF TAXI CAB HEARING - SHEILA BRAKE

Mr. Aaron stated to Mr. Siciliano (attorney representing Sheila Brake) that in the executive session held this evening that the Director of Public Safety reviewed the past criminal history of your client. There were no other discussions.

Mr. Siciliano reviewed information given at the last meeting of the Council.

Sheila Brake came to the microphone and made a few statements in her own defense.

After discussion amongst Council, a motion was made by Councilperson Brown, seconded by Councilperson Unger to approve a one year probationary license to Ms. Brake and to return to Council in a year for a review as carried out upon the following roll call vote: Ayes 3 / Abstain 1 Giordano / Nays 1 DeStefano

READING AND APPROVAL OF PREVIOUS MINUTES:

September 22, 2009 - Motion to approve the minutes of September 22, 2009 was offered by Councilperson Celli, seconded by Councilperson Unger - Ayes 4 / Abstain 1 Giordano

CONSIDERATION OF ORDINANCES

PUBLIC HEARING AND FINAL CONSIDERATION

#18-09 ORDINANCE REAPPROPRIATING \$135,000 PROCEEDS OF OBLIGATIONS NOT NEEDED FOR THEIR ORIGINAL PURPOSES IN ORDER TO PROVIDE FOR THE ACQUISITION OF TWO NEW BEACH RAKES AND THE REFURBISHMENT OF A BEACH RAKE AS MORE FULLY DESCRIBED HEREIN IN AND BY THE CITY OF LONG BRANCH, IN THE COUNTY OF MONMOUTH, NEW JERSEY

A motion was made by Councilperson Celli, seconded by Councilperson Brown to hold this ordinance over to the October 27, 2009 meeting for public hearing and adoption / Ayes 5

ORDINANCES FOR INTRODUCTION:
PUBLIC HEARING SCHEDULED FOR OCTOBER 27, 2009

#19-09 ORDINANCE PROHIBITING TURNS ALONG EAST AND WEST VEHICULAR TRAFFIC AT THE INTERSECTION OF MONTGOMERY AVENUE AND OCEAN BOULEVARD

A motion was made by Councilperson Brown, seconded by Councilperson Celli to introduce on first reading, advertise and post according to law and set the public hearing for October 27, 2009 was carried out upon the following roll call vote: Ayes 5

PUBLIC PARTICIPATION:

A motion by Councilperson Celli to open the public portion of the meeting was seconded by Councilperson Unger.

Diana Multare - 21 N. Bath Avenue

Spoke regarding Bond ordinance for the Pier and Ferry. Went on to speak regarding contracts with the City and top employees of the City and payouts for accrued sick and vacation days.

Lynn Petrovitch - 32 Woodrow Street, Oakhurst

She is a CPA and was asked to review documents received as a result of an OPRA request by the Long Branch Citizens for Good Government and reviewed the City's latest audited Financial Statement. Went over Mr. Mehlhorn's contract with the City.

Tom Sheedy - 28 Bayview Court

Spoke on behalf of the Long Branch Citizens for Good Government. Spoke regarding articles he had published in the newspapers. Went on to speak about unused time, management control, other positions Mr. Mehlhorn holds and use or lose vacation / sick leave.

Brian Larko - Monmouth University / Joey Conraise - Monmouth University / Jade Glinkin - Monmouth University

Spoke regarding bylaws and the constitution for the Student Government Association at Monmouth University and he (Joey) is the Chairperson for the Human and Commuter Relations Committee. One of the things that has to be done is they have to attend a Council meeting. Spoke to Council about the event this Saturday doing clean up around the City, went on to speak about activities on campus so students can stay on campus, Office of Substance awareness is creating activities for students to attend to give them awareness.

Brian went on to speak about the problem of underage drinking at the college and it's acknowledged. The College is starting a "Party Smart Program" which is designed to highlight common sense practices.

Gerry Scarano – Ocean Boulevard

Spoke regarding the Columbus Day Parade. Spoke regarding the tax crisis and open records, sick days and giving money to employees, use them or lose them sick and vacation days, asked about GPS systems and asked if they are being put in the City cars and the fire at the lifesaving station at Lake Takanassee.

Bill McLaughlin – 448 Ocean Boulevard

Spoke regarding Ron Mehlhorn and blames the Mayor and Council. Went on to speak about everything given to Mr. Mehlhorn and Mr. Aaron's health benefits given by the City.

Harold Bobrow – 295 Ocean Boulevard

Thanked Mr. Woolley for his work, another meeting regarding Beachfront South on November 5th at 7pm. Went on to speak about the lack of transparency, monies spent on redevelopment etc...beach raking, the master plan and meetings taking place, firefighters increases and have everything that the City is doing posted on the website.

Michelle Bobrow – 295 Ocean Boulevard

Spoke regarding transparency, closed session minutes being posted, read portions of the sustainable resolution on for adoption and public strategies.

Vincent Lapore – Long Branch

Spoke regarding Broadway Gateway Redevelopment Zone, asked if certain portions have a developer.

Mr. Aaron advised Mr. Woolley not to answer these questions regarding Broadway Gateway / Fuschia Triangle as this is going to court tomorrow.

Mr. Lapore asked who was paying the bill for the lawyer to represent the City and Mr. Aaron stated the City.

Went on to speak regarding eminent domain abuse, blight designation, settlement agreement with MTOTSA, Applied Development and recorded mortgages.

After ample time was given and no one came forward a motion was made by Councilperson Celli seconded by Councilperson Brown to close the public portion of this meeting.

RESOLUTIONS:

On file in the Clerks Office and the City's Web Site.

APPLICATIONS:

1. APPROVAL OF CITY ACTIVE MEMBERSHIP FOR MATTHEW L. DURLAND IN THE INDEPENDENT ENGINE & TRUCK CO.
2. APPROVAL OF CITY ACTIVE MEMBERSHIP FOR CARLIE MARIE JOHANTGEN IN THE BRANCHPORT HOSE CO.
3. APPROVAL OF A RAFFLE LICENSE FOR TEMPLE BETH MIRIAM

4. APPROVAL OF A RAFFLE LICENSE FOR THE LONG BRANCH LITTLE LEAGUE
5. APPROVAL OF A RAFFLE LICENSE FOR THE NJ REPERTORY COMPANY

A motion by Councilperson Celli, seconded by Councilperson Brown to approve the above applications was passed upon the following roll call vote: Ayes 5

MISCELLANEOUS BUSINESS FOR THE GOOD OF THE ORDER

Mr. Mehlhorn - Finance Director - Real quick, as far as Mrs. Multare, when you were up there, you discussed the 8 million and 10 million and said that they are not readily available but they appear in every budget. Sheet 3 spells out all of the liability, contingent liability actually for (inaudible) comp time, it's not for senior management and whatever, it's for everyone in the City and it's at 8.5 million dollars for 2009. It's a contingent liability in that it is not recorded on our books as the account that was up here stated. It's contingent upon the City folding its doors and having to pay every penny that it owes its employees. That will never happen. If that happened that would be the least of your problems. There are people that have a couple of hundred days in they are limited under a contract so that maybe they will get 15 or 25 thousand but its included in here in case during the course of a couple of years they wind up going out sick and its in the budget and they are being paid their salary because they are on sick time so it's a contingent liability that's been put here basically in answer to some of these post employment kind of benefits so people know whats going on. You'll never have this kind of exposure and actually I am exceedingly liberal in throwing everything in here. It can be limited and next year as a matter of fact I will do basically what they could get if they close the doors on December 31st of 2009 as an example and that would limit it to certain percentages, certain dollar amount and it would be greatly reduced and you should never be paying that anyway. The account got up there and referenced a letter from Mr. Woolley, I mean I gathered a lot of the information on my own contracts and back round, she references the supervisor's contract. In the letter, whether the meaning eluded, I don't know if it was clear enough, it meant all other benefits other then those spelled out in my contract are the same as the supervisors. My contract says (inaudible) etc... they stand by themselves, you can't compare it with the others, it means those that were not such as I get Blue Cross Blue Shields health benefits etc... so its not spelled out, it reverts back to the supervisors contract. There is a reference to other positions and a real quick synopsis, I am the treasurer for the Board of Education, Long Branch Board of Education and I have been for 28 years and 4 months. I happened to have gotten that job the same day as I took this position. Under NJ Statute, I must be afforded that job as the custodian of money for the City they have to offer me that job. As a Veteran my pension is based on my last highest year of service so if there was any kind of scam I wouldn't have started it 30 years ago. You get those jobs in your last year, it's just that I have been there. The person that was there left and went to Hazlet and asked me to come up to Hazlet and that's how I wound up with that job 20 years ago last month. The City positions, they are really positions, not separate jobs that you can equate to so many hours a day. I'm responsible now for grant coordination of all the various departments, 4 or 5 million dollars in grants, 52 grants, the library itself dates back to 1988. They needed help, they came to the City Council and the Council said that we are fine with Mr. Mehlhorn doing the work. They actually gave me permission to use city computers, city time, whatever I had to do but at that same time there was a windfall to the Library because of the assessed valuation going up that we worked out a deal where they had never paid

their fringe benefits, they were always paid by the City. Once they are paid by the City they can never go back unless it's voluntary so when this whole deal of me maintaining their records for them and doing financial statements every month for them, the Library picked up those fringe benefits. I went back in each Audit and the first year they had to transfer 16,000 into it and its 2 million dollars the City has saved since I've been over there just for that one deal. Mr. Sheedy, (inaudible) I take exception to the inference that there is some wrong doing. I didn't say I never took a vacation. I've earned 525 days and have taken 50 days vacation off so I have been out of here so people can check the books while I was gone but its not the environment to explain to you the dedication that I have for my job, it's a passion and to be ridiculed for what I do or inferences that there is some wrong doing takes away from a 29 year career. I hope to put that behind us and I do work hard. I put in long hours and long days. The (inaudible) and I am not minimizing that but I was able to retire at the time of my contract. I had 25 years at that time and seriously considered retirement or another opportunity actually. Obviously the contract kept me here and I'm still trying to stick in there because of trying times. That's about it.

Councilman Brown - Yes good evening, I would just like to offer my thanks and well wishes to those responsible for this weeks Columbus Day celebration, specifically the parade that the City put on this past Sunday and to thank all of the City departments who participated, especially DPW for its fantastic clean up and follow through after the parade. Again, Long Branch was shining, the best parade in the State. Thank you.

Councilman Giordano - No comment.

Councilman Unger - Well I appreciate Ron's statement and I've always enjoyed working with Ron, he's a real professional, however I take issue with some of the professional practices we have here in City Hall and it pains me to have to bring this up but I am going to keep it on a professional basis because I like him personally and he's been very very kind to me and a very good finance director to me as an individual trying to learn financing and City budgeting. I do want to say however Ron is not the Mayor and these questions should be answered by the Mayor, not by Ron as an employee. The Mayor signs these contracts, the Mayor negotiates these contracts, the Mayor owns every single line item in the budget and I think in all fairness to my colleagues and I'll have to write something up, I think we should look at an ordinance that limits the compensated accrual of vacation and sick time. I think it's outrageous and I think the cap on the other management employees is reasonable. It's a \$25,000 cap and it limits the amount of vacation days that you can accrue as well and I think we need to devise something now as a senior manager, maybe Chubby and Ron have a higher cap but I think you know, \$200 and \$300,000 dollar payouts are absolutely outrageous and we can't afford them in this current climate. We should have one or two year contracts, they should be reviewed and we should be looking at the current economic situation before allowing these kinds of payouts. I took it upon myself to look at the audited statements of the City and I'm concerned in these audited statements and if you got a copy you'd find out that our auditors feel that we are not using the strictest accounting system available and they've advised us that the variances between GAAP, the Generally Accepted Accounting Principals which is the goal standards for accounting in the United States of America is going to make for material differences and I think these are some of the very material and when they say material they mean cash, cash differences in the accounting that we use because we use a system that's not as strict as

GAAP, its perfectly legal but its not the best available practice and I'm afraid that it may allow for an unacceptable level of non disclosure. Our City's audit firm Hutchins Farrell Myer and Allison declared in the cover statement for this years report that the variance between the City's adopted system of accounting guidelines and the gold standard of GAAP, they actually said that their financial statements of the City that they prepared do not present fairly, do not present fairly in conformity with the accounting principals generally accepted in the United States. The 10.4 million or the 8 million, whatever it is that Mrs. Multare referred to is not listed as a liability and its not included in our overall debt load and if you're interested in what GAAP is, this is what GAAP is...GAAP asks for a principal of sincerity, in other words, the public should be able to have good faith in their reality of a government agencies financial status, they ask for principal of prudence, in other words showing the books as is and should not try to make things look better then they are and they ask for a principal of full disclosure and materiality. Again the word materiality, that means real dollars, all information and financial values pertaining to the financial position of the business, must be disclosed. I'm going to recommend Ron and Chubby take a look at this GAAP procedure, I'm sure Ron is very familiar with it and give a report to Council and make it public on whether we should change to a GAAP system and I want to also mention that our time and attendance system that this is all based on is not automated, the date is not automatically fed into payroll and its not audited by the City's audit firm so this whole problem arouse from a system that (a) is manual, is old fashioned, is not automated, is not automated into the payroll department and is not audited by our Auditors so its simply unacceptable and I really think as Council its up to us to come together on this and do something reasonable. Thank you.

Mr. DeStefano - I have to give Mr. Mehlhorn another opportunity because I'm even smart enough to know that we don't operate on GAAP so I...

Mr. Unger - That's what I said Michael, we don't operate on GAAP.

Mr. DeStefano, Mr. Aaron and Mr. Mehlhorn - You can't.

Mr. Mehlhorn - You can't operate on GAAP.

Mr. Unger - Yes you can.

Mr. Mehlhorn - You're not allowed to. The State of NJ...

Mr. Unger - I don't think that's true. The state law doesn't require that we use GAAP but we should be.

Mr. Mehlhorn - You're not allowed to use GAAP. You're a creature of the state. The creature says...

Mr. Unger - Then why did the Audit firm point out the fact that we're...

Mr. Mehlhorn - They have to do that because they are CPA's and they are governed by GAAP. They have to put a disclosure in there that this varies from GAAP accounting but everything that the City does is in compliance with the State mandated system. You're not allowed to use GAAP in New Jersey. Not allowed to positively.

Mr. Unger - Do you think we could adopt some of their practices?

Mr. Mehlhorn – No, you can only use the accounting system established by the State of New Jersey. They are called OCBA statements, Other Comprehensive Basis of Accounting and that is mandated, the state says, when I tell somebody I can't dig up that information, that's because the state is mandated how we keep the books here. I mean it's not a cost...

Mr. Unger – One last sentence and I'll stop. They are saying in their report though that the State of New Jersey has a system that is weaker and is more degenerated than other jurisdictions, if that's true then maybe New Jersey is...

Mr. DeStefano – That's not what they are saying, that's not what they said.

Mr. Mehlhorn - they have to spell out the difference between GAAP and the accounting practice that they use.

Mr. Unger – I think we should have an ordinance, Ron, that limits the accrual at 100% payouts.

Mr. Mehlhorn – I agree 100%.

Mr. Unger – Okay, then we are all in agreement.

Dr. Celli – On a more positive note everybody, first of all I was delighted to see the Monmouth University students, I worked with one of them and I'm glad they came forward and offered their hand in friendship and I think they certainly mean it. They've offered October 17th as the big event day and if you have any property, lawn cutting, anything you want done, you contact the University and the students will be happy to help you. I also want to compliment Public Works, the Police and all of the members of the community who came out for the wonderful Long Branch Columbus Day Parade. It was a great day in Long Branch it was a beautiful day, we had a lot of nice floats, our bands and certainly thank you to Joe Mercandante for all his hard work. I do want to correct something Mrs. Multare said, not all of us have been up here for 20 years. She should know that and the last thing I want to remind everybody although you have 3 hours and 45 minutes to do it, today is the last day to register to vote so if you want to do it you can go online and I encourage everybody who is not registered, please vote. Thank you.

Mr. DeStefano – I just want to say that I allowed the change for Mr. Mehlhorn to address some of these issues because I obviously feel that some of these allegations not only are unfounded but quite frankly based on an ignorance of NJ statutes and the way we have to function as a body in terms of finances. The other issue I wanted to address tonight because it's always being mentioned, we're here every month, twice a month, every resolution, every ordinance is published. All information that you come to the microphone with you've obtained through an open records request which means it's public information. Everything we do is in front of you, in front of the press and in front of anybody else who wants to glean out of whatever is being done, anything they wish to do including Mr. Mehlhorn's contracts, including Mr. Woolley's contracts. Anything that is approved is public. I think there is an incredible misuse of the term transparency. I think that the way it's being used by members of the audience that do come here is to imply that we are covert and hiding something when by the very nature of this meeting and the way this meeting needs to be conducted, all of the information that you come here with and question us about is in fact transparent public information. I have to tell you, from here on, whenever I hear that word

transparency, all I can think of for the people that use it is its your little code for saying, we think you're this or that, or guilty of this or that and that's what we are going to keep saying so that people will think that too and I have had it and with that, we're adjourned.

ADJOURNMENT

This meeting of the Long Branch City Council adjourned at 8:15 p.m.