

4/28/08 Executive Session
7:30 p.m.

Motion made by Councilman Razzano to go into Executive session. Councilman Trenga seconded the motion. Carried by unanimous voice vote.

Present: Mayor Eppinger, Clw. Buffalino, Clm. Hutchison, Clm. Razzano, Clm. Trenga, Clm. Trzeciak, Andrew Salerno, Administrator, Gary Schwartz, Esq., Peter Barnes, Esq.

Absent: Clm. Krenzel

Dave Wroblewski/Scott Melski Suit against Borough of South River

Peter Barnes, Esq. attended meeting to brief the Borough Council on this matter. He and Mr. Salerno attended a meeting a couple of weeks ago and he is bound to report back to the Council. The matter was heard in mediation. This is not a trial. It is an overview of what the court appointed mediator feels what it is worth. No discovery has been completed. Complaint has been filed. He has not gotten any documents from the Borough Clerk or any of the building officials. The Borough entered into an interlocal agreement with Old Bridge on 8/13/07. It terminated the positions of the Code Enforcement Official and Construction Official. Mayor Eppinger and Mr. Krenzel voted no on this matter.

Allegations are as follows:

- Mr. Wroblewski was hired on 8/23/05 for four positions.
- Mr. Melski was the Fire Code Inspector.
- The interlocal agreement eliminated two of the positions.
- Glenn Lauritsen was hired for two of the jobs.

Complaints are as follows:

- Mr. Wroblewski was not given an opportunity to speak on his behalf.
- Ordinance 68-8 states that certain persons, when terminated, are offered other jobs.
- The Council did not adopt an ordinance that officially terminated the jobs.
- The interlocal agreement was not adopted by ordinance or by resolution.
- The interlocal agreement did not save taxes and did not increase the level of services.
- The governing body did not specify why they did it.

Mr. Barnes stated that Title 59 immunizes the borough under certain circumstances. There are several immunities may protect the Borough of South River. Common law immunities may apply. If plaintiffs prove that South River ordinance was violated, the Borough Council may not be protected.

Mr. Barnes stated that Mr. Melski has a weak claim. He was offered a job that would have given him more money. Mr. Wroblewski and Mr. Melski are eligible for jobs in Sayreville and are looking for the Borough to make a call on their behalf. Mr. Salerno advised the Council that he called Sayreville.

Mr. Barnes advised that the plaintiffs have demanded over \$100,000 plus counsel fees. The mediator feels that the claim is worth \$75,000 because of lost wages and counsel fees. Mr. Barnes thinks we could settle between \$45,000 and \$50,000. If the Borough Council feels it would want to settle, contact him and he will talk to Mr. Kurtz at JIF to see what they could contribute. Contractual matters are not something that JIF would normally cover.

Mayor Eppinger asked Mr. Barnes how much time is needed. Mr. Barnes advised no more than thirty days. If we settle relatively quickly for a good figure and the fact that they recently got jobs in Sayreville, it would be a good thing. Mr. Salerno stated that Sayreville does not want to be involved in a case with South River. Mr. Barnes stated that Mr. Wroblewski was originally looking for reinstatement.

Mr. Trenga asked if legal fees would be more than the settlement if we wanted to fight the case. Mr. Barnes stated that he does not get involved with the contract with JIF, but most likely the Borough would get hit with a higher premium. Mr. Barnes said that there are two years left on Mr. Wroblewski's term.

Mr. Salerno stated that he would get more information and list this matter on the next executive session.

Mr. Barnes left the meeting.

Animal Inspection Re-bids

Mr. Salerno stated that he would get information on the animal inspection re-bids and forward it to the Borough Council.

Water and Sewer Bids

Mr. Salerno said that the water and sewer bids come in tomorrow and he will report back to the Borough Council.

Personnel

Mr. Salerno advised that the cleaning lady was fired.

Mr. Salerno briefed the Borough Council on the lawsuit he filed with Jackson Township. He stated that he has never been censured.

Property Acquisition

53 Obert Street

Mr. Salerno stated that 53 Obert Street was appraised at \$189,000. Mayor Eppinger raised the question of having Mr. Salerno and Mr. Schwartz privately negotiate to buy the property from the property owner and then sell the property to the Parking Authority. Mr. Razzano commented that the property owner is losing money on the property. Mayor Eppinger said the thought is to authorize the professionals to negotiate with the property owner. He asked that Bruce Koch be contacted to get a copy of the conceptual plan. Mr. Schwartz stated that funding has to be in place. Mr. Salerno advised that money is in the Capital Improvement Plan and is available for deposit.

Diaz Case

Mr. Schwartz stated that the Diaz case has been adjourned for a month.

51 Reid Street

Mr. Himmelman has made a summary judgment to have the complaint dismissed. Because the Borough Council did not appropriate any funding, it is illegal to enter into an agreement.

Motion made by Councilwoman Buffalino to close Business Meeting at 8:20 p.m.
Councilman Trenga seconded the motion. Carried by unanimous voice vote.

Respectfully submitted,

Patricia O'Connor, RMC
Borough Clerk

Approved for release at the regular meeting
held on October 9, 2012