

Executive Session
Mayor and Borough Council
January 26, 2009
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Mayor and Borough Council
Executive Session – 1/26/09
Time: 8:00 p.m.
Present: Eppinger, Trzeciak, Almeida, Guindi, Hutchison, Razzano, Trenga
Salerno, Gary Schwartz, Esq.

RESOLUTION

WHEREAS, Section 8 of Chapter 231, Public Law 1975 permits the exclusion of the general public from a meeting of the Governing Body under certain circumstances; and

WHEREAS, the Mayor and Council of the Borough of South River are of the opinion such circumstances presently exist.

NOW, THEREFORE, BE IT AND IT IS HEREBY RESOLVED by the Mayor and Council of the Borough of South River in the County of Middlesex of the State of New Jersey, that the public be excluded upon the hereinafter specified subject matter and that such subject matter to be so discussed is as follows:

Anticipated Litigation
Pending Litigation
- Ayers vs. Borough of South River
- Obchinetz vs. Maple Shade Township et al
- Beach Electric vs. Borough of South River
Potential Property Acquisition
Personnel

BE IT FURTHER RESOLVED that such record of the above discussion will be made public when confidentiality is no longer required.

DATED: JANUARY 26, 2009

/s/ Anthony Razzano
Councilmember

/s/ Jim Hutchison
Councilmember

ROLL CALL VOTE

YEAS: Almeida, Guindi, Hutchison, Razzano, Trenga, Trzeciak
NAYS: None

Pending Litigation

Obchinetz vs. Maple Shade Township et al

Mr. Schwartz advised that JIF is defending on the punitive damage count, but is not defending on other counts of the complaint. The Borough has not filed an answer yet. Plaintiff is to file an amended complaint which will be served on the municipalities. There will be one attorney

designated to represent all of the municipalities. Suit is on hold and there is no expense to the borough at this time.

Beach Electric vs. Borough of South River

Mr. Salerno advised that he and Mr. Schwartz met with Tom Noto. Beach Electric was the company responsible to deliver the housing for the substation improvements. There was a delivery date and the material was delivered forty days later. We had liquidated damages that amounted to \$500/day. We were proceeding to put a claim against Beach for \$47,000. Mr. Schwartz researched the matter and advised that unless you can prove damages, the case is shaky. Mr. Noto spoke to Beach and they offered \$10,000. We said no. Mr. Salerno stated that Beach offered to do additional work for us. Mr. Noto said that as project engineer, that would be satisfactory to him to close out this matter.

Mr. Schwartz stated that you cannot calculate liquidated damages. You cannot collect for liquidated damages unless you have damage. There was no damage to the Borough according to Tom Noto. The only thing that was not done was the study. The study will be done by Beach. It would be in-kind work – no cash.

Mr. Salerno stated that Beach will do the study and do additional work.

By consensus, the Council agreed.

Ianetta vs. Borough of South River

Mr. Salerno advised that JIF did not make any movement. He received a letter from the excess line carrier saying they would not cover this matter. Dave Himmelman is going to file a motion to JIF against the judgment. Mr. Roselli will be put his carrier on notice.

Mr. Salerno spoke to Glen Kurtz. As an employee, Mr. Roselli is afforded professional liability coverage. Mr. Roselli said he was acting as a borough official. JIF said it is contract liability. JIF does not want to cover this because we had a contract with Mr. Roselli. The damages are between \$35,000 and \$50,000 plus legal bills. Mr. Himmelman is preparing papers and will advise Mr. Salerno.

Ayers vs. Borough of South River

Mr. Salerno advised that Mr. Ayers has not done anything. JIF named Art Thibault, Labor Counsel, as attorney. Mr. Ayers is asking for a new SUV or \$40,000.

Mr. Salerno stated that Mr. Adamusick, President of the Rescue Squad, filed a letter on December 15, 2008 regarding complaint against Caroline Christensen. Capt. Synek responded to the letter.

Personnel

Fire Prevention

Mr. Salerno advised that he spoke with the Fire Prevention staff member and is working with the staff member on a one-to-one basis.

Wayne Hodges

Mr. Salerno stated that Mr. Hodges is in the process of getting rid of fines associated with 55 Reid St.

Glen Lauritsen

Mr. Salerno stated that Mr. Lauritsen is back in school. He passed the Construction Official test. He should have Construction Official license in hand by September. Mr. Salerno stated that we could terminate agreement with Old Bridge. We would have to lay out getting part-time inspectors. We were running a \$70,000 deficit. Mayor Eppinger stated that we now have solid data in researching whether to bring the Construction Office back.

Electric Utility

Mr. Salerno advised that there is a surplus of \$2.7 million in the electric utility budget. We went from anticipated to cash in hand. We collected \$250,000 more than was anticipated. Mayor Eppinger stated that we now know what we actually have to play with in preparing the 2009 budget.

Potential Property Acquisition

Mr. Salerno advised that he has not heard from East Coast as yet and there was nothing to report at this time.

Adjournment

Motion made by Councilman Razzano to adjourn executive session at 8:10 p.m.
Councilman Hutchison seconded the motion.

Respectfully submitted,
Patricia O'Connor, RMC
Borough Clerk