

“GOD BLESS AMERICA”

REGULAR MEETING

OCTOBER 1, 2014

A regular meeting of the Mayor and Council of the Borough of Belmar held on the above date at 6:00 PM at the Belmar Municipal Building, 601 Main Street.

PRESENT: Mayor Doherty, Councilwoman Nicolay, Councilman Bean, Councilman Magovern, Councilwoman Keown-Blackburn, Acting Borough Attorney Kerri Higgins, Esq., Business Administrator Colleen Connolly, and Borough Clerk April Claudio

The Borough Clerk stated “Adequate notice of this meeting has been provided to The Coast Star, the official newspaper of the Borough of Belmar, and the Asbury Park Press on September 11, 2014 notice of this meeting was prominently posted on the bulletin board of the Municipal Building and filed with the Clerk of the Borough of Belmar.

PLEDGE OF ALLEGIANCE

MOMENT OF SILENCE: Our troops and their families, Rashon Mallory, John Walsifer and Sue Ann Goss

RESOLUTIONS:

Mayor Doherty offered the following resolution, Resolution 2014-163, **RESOLUTION APPOINTING LAWRENCE KELLY AS PATROLMAN OF THE BELMAR POLICE DEPARTMENT WITH ADVICE AND CONSENT OF THE BOROUGH COUNCIL** for adoption, which was seconded by Council member Magovern and approved by the following vote:

AYES: Keown-Blackburn, Magovern, Bean, Nicolay and Doherty

Mayor Doherty administered the Oath of Office to Mr. Kelly.

SPECIAL PRESENTATIONS:

- Employee of the Month: Frank Leib
- Breast Cancer Awareness Month

WORKSHOP DISCUSSION:

- Ordinance 2014-01
 - o Mayor Doherty stepped off the dais during this discussion because of pending litigation stating he has a conflict of interest regarding this ordinance.
 - o Council member Magovern stated this is a workshop discussion and the public will have a chance to speak at the end of the meeting. He stated he is not pro union or against non-union; what he is in favor of his having people do work that have been properly trained to do the work. He asked the other council members how they feel about the ordinance.
 - o Council woman Nicolay agreed with Council member Magovern’s comments. She added that she doesn’t think the ordinance says that non trained people can’t do the work but feels its added insurance for the town.
 - o Council member Bean stated he doesn’t understand why this is being discussed because there is a lawsuit against it and a petition.
 - o Council member Magovern stated we don’t want this ordinance holding up any future projects. Felt the Council should discuss it and see if there is a way to amend the ordinance without it being handled through litigation.
 - o Council member Bean felt the discussion should be held with the petitioners to see if they would withdraw their petition.
 - o Council member Magovern stated they can be contacted and see if there can be a compromise made.
 - o Council member Bean felt this discussion should have happened at the last meeting. He suggested striking the language per the petition.
 - o Council member Keown-Blackburn feels this is a good start and would like to see if a compromise can be made. She believes the ordinance is important because if you have unqualified people performing work they can get hurt

which hurts the town with increased costs and time. She felt this ordinance looks out for the future of Belmar and the creation of jobs for our children.

- Council member Magovern stated the ordinance holds back a smaller company that doesn't have an apprentice program. He suggested adding language that the apprentice program language would only apply to contracts \$500,000 and up. He asked Council member Bean if that change would be acceptable to him.
 - Council member Bean felt it's not for him to say because it's up to the petitioners. Ms. Higgins felt the Council has every right to discuss this and can make changes even with the petition out there.
 - Council member Magovern suggested sitting down with the committee of petitioners.
 - Ms. Higgins stated the Council has several options, one being that the existing ordinance could be rescinded and a new ordinance with amendable language be introduced at another meeting.
 - Council member Bean felt we should deal with the petition first. Council member Magovern felt it should be discussed now and then with the petitioners.
 - Council member Keown-Blackburn stated we could rescind the existing ordinance and introduce a new one at the same meeting.
 - Council member Bean stated he is open to discussion but will not make a decision tonight.
 - Council member Nicolay stated it is an option and perhaps there are other options.
 - Council member Keown-Blackburn agreed there should be a dollar amount in the ordinance and perhaps \$500,000 is not the right number but we should all discuss it and come up with a compromise.
 - Council member Magovern stated there are some members of the petitioners here and perhaps they will have suggestions later when they have the chance to speak.
 - It was discussed that the Council would like to come do a decision and possibly have a special meeting in two weeks to address the ordinance and petition.
- Lake Como Updates
- Ms. Connolly stated at the last two meetings we discussed a plan for Lake Como hazard mitigation which had an estimated cost of \$6 million dollars and an intensive permitting process. She stated she has sent several letters to different Senators and Assemblyman to seek assistance on alternate sources of funding and permit expediting. She also reached out to the Business Administrators of Lake Como and Spring Lake. The Borough of Spring Lake is open to a property easement which would save some pipe length and costs. We will be holding a community meeting on October 23rd to discuss the project with the residents.
 - Council member Magovern suggested reaching out to the County for assistance as well.

PETITIONS:

- Borough Clerk read the Certification of Petition for Ordinance 2014-01
- Mayor Doherty stated he received a petition from residents regarding an issue at 103 17th Avenue. There will be further discussions of this issue at a later time.

REPORTS OF MAYOR AND COUNCIL:

Council member Magovern: Stated \$3,184,491.10 is total beach revenue for the summer.

Council member Keown-Blackburn: October is also depression awareness month. Health Fair was this past weekend, 42 people gave blood, 40 flu shots were given and food bank received over 100 food items. Thanked everyone who came and participated. Cook book launch party is this Saturday in the community room. CERT training has started, held first meeting this past Monday. Maclearie Park playground installation is coming along.

Council member Bean: Stated he has enjoyed his three years serving as Councilman and realizes his time here is coming to an end. He would like to see everyone treat each other as equals. Would like to see all of the Council work together. Liked Council member Magovern trying to discuss the ordinance tonight but he is not happy that there have been other times where he wasn't allowed access to documents and couldn't meet with the CFO privately to discuss the budget. He would like to get rid of the whole partisan system in Belmar. Thinks

it's important to listen to the residents and lead in the way the people want them to go. Feels we are not listening to the people very well.

Council member Nicolay: Bonfire is October 18th for residents. November 1st is Touch a Truck. There will be some dredging of the Shark River Inlet next week. NJEDA streetscape grant is in the works for 5th to 10th Avenue. Boardwalk winterization has begun. Beach lockers have been removed. Thanked DPW for free bulk pick up. Read DPW report. Encouraged everyone to get mammograms.

Mayor Doherty: Stated every member of the Council had the opportunity to meet with the BA and CFO about the budget together which makes sense since the CFO keeps track of the finances and the BA handles the spending of the money. He stated the Borough Attorney is working on a brief for the lawsuit against ordinance 2014-01. He is also seeking clarification from NJELEC because of how political the lawsuit is. He stated that there are also some factual statements in the lawsuit that are not true. One of the statements states that Ms. Connolly was roommates with his wife in college, which is not true. He stated the lawsuit is very over the top and encouraged all residents to read it. Another issue is one of the lead persons on the lawsuit is the campaign coordinator for Council member Bean's campaign. He explained that typically lawsuits create attorney fees but this lawsuit is also seeking additional money from the tax payers because the lawsuit is asking for plaintiff legal fees to be awarded to them. Typically an ordinance can be challenged within 45 days and this lawsuit falls far outside that statute of limitations. Borough Attorney will be seeking to have this thrown out. Also seeking clarification from NJELEC about whether or not this is a roundabout contribution to Council member Beans' campaign. He advised residents if they see issues around town that need to be addressed they should contact the Council or Borough right away rather than waiting for a meeting.

APPROVAL OF MINUTES: Council member Magovern made a motion to approve the minutes of the September 9, 2014 meeting, which was seconded by Council member Nicolay and approved by the following vote:

AYES: Keown-Blackburn, Magovern, Bean, Nicolay and Doherty

PUBLIC SESSION: Public Session on resolutions only on the Agenda. We will continue to have a Public Session at the end of this meeting.

None

Mayor Doherty made a motion to close the public session, which was seconded by Council member Keown-Blackburn and approved by the following vote:

AYES: Keown-Blackburn, Magovern, Bean, Nicolay and Doherty

RESOLUTIONS:

Mayor Doherty offered, Resolution 2014-164, **RESOLUTION AUTHORIZING PAYMENT OF BILLS #1**, for adoption, which was seconded by Council member Magovern and approved by the following vote:

AYES: Keown-Blackburn, Magovern, Bean, Nicolay and Doherty

Prior to voting, Council member Bean asked if the buy a board funds is included in the \$10 million repayment to the beach fund. Ms. Connolly stated this is a payment from FEMA that was approved as a budget modification at a previous meeting and the buy a board funds are not included.

Mayor Doherty offered, Resolution 2014-165, **RESOLUTION AUTHORIZING PAYMENT OF BILLS LIST #2 (STAVOLA)**, for adoption, which was seconded by Council member Keown-Blackburn and approved by the following vote:

AYES: Keown-Blackburn, Magovern, Nicolay and Doherty

ABSTAIN: Bean

PAYMENT OF BILLS: certification that the vouchers listed on the warrant register numbering 62307 thru 62427 are as follows and comply with requirements of State Law and

Borough Ordinance as to content and form, that proper and sufficient appropriations exist for the payment to be made and that there is legal authority as provided in N.J.S. 40A: 5-17(a)(1) for the payment to be made.

01 General Account	\$11,160,600.00
05 General Capital Account	\$36,712.81
11 Water/Sewer Account	\$462,724.84
15 Water/Sewer Capital Account	\$23,843.26
21 Beach Utility Account	\$28,089.05
23 Parking Utility Fund	\$367.70
31 Public Assist I Account	\$100.00
55 Trust Fund Account	\$2,060.00
61 Tourism Development Account	\$9,708.57
Total	\$11,724,206.23

CONSENT AGENDA:

All matters listed in the Consent Agenda are considered to be routine by the Borough Council and will be enacted by one motion. There will be no separate discussion of these items. If discussion is desired, that item will be removed from the Consent Agenda and will be considered separately.

RESOLUTIONS BY CONSENT:

Council member Magovern offered the following resolutions for adoption:

2014-166

RESOLUTION MAKING FINDINGS AND DETERMINATIONS ON LEGALIZED GAMES OF CHANCE APPLICATION NUMBER 2014-12, 13, 14, 15, 16

2014-167

RESOLUTION AUTHORIZING MAYOR AND COUNCIL TO DECLARE HALLOWEEN CURFEW

2014-168

RESOLUTION AUTHORIZING REFUNDS

2014-169

RESOLUTION AUTHORIZING THE DISPOSAL OF SURPLUS PROPERTY

2014-170

RESOLUTION APPROVING MEMBERSHIP APPLICATION FOR UNION FIRE COMPANY

2014-171

RESOLUTION REJECTING ALL BIDS FOR THE FIFTH AND TENTH AVENUE BORDWALK PAVILIONS

RESOLUTION APPOINTING MEMBER TO THE BELMAR HOUSING AUTHORITY (PULLED FROM AGENDA PRIOR TO START OF MEETING)

Seconded by Council member Nicolay and approved by the following vote:

AYES: Keown-Blackburn, Magovern, Bean, and Nicolay

ASBTAIN: Doherty

PUBLIC SESSION:

Teri Raskauskas, 912 13th Avenue, just moved back to town from having lost her house in the storm. Thanked all the town professionals who assisted her.

Mark Pheiffer, 319 Fifth Avenue, had to use 9-1-1 today because he fell in his kitchen and everyone who responded was fantastic. Was glad to see one of the military surplus vehicles being used to remove the beach lockers from the beach.

Peter Piro, 300 North Boulevard, thanked Mike Campbell and Kevin Gahan who worked in the hot sun to get rid of the bad grass on North Boulevard and put in some stones and bushes.

Andrea Ganguzza, 110 14th Avenue, asked if the Epic contract was cancelled. Mayor Doherty stated it was on the agenda. Thanked Council member Bean for his service on the Council and being the voice of reason. Stated it is her understanding the lawsuit will go away if the ordinance is rescinded. She doesn't understand why the ordinance is so important since so many projects have been done without it. She stated there are rumors that Mayor Doherty is going to run for a hire office next year and asked if it was true. Mayor Doherty replied no. Would like to know when the debt incurred by Sandy is going to hit. Mayor Doherty stated there is \$25 million in Hurricane Sandy debt and about \$18 million has been paid off. She asked for the total debt against the town and when it will be due. Mayor Doherty will get her the information.

Sam Panaleo, 227 17th Avenue, stated the person that came up to him about the petition didn't know what an apprenticeship program is and didn't understand it. He is a plumber that has an apprenticeship program and encouraged people to come out to his company and see what they do.

Claire Deicke, 14th Avenue, stated the letter she had sent out talked about the great leadership from Mayor Doherty in the wake of hurricane sandy. She stated when she said people above politics she feels that applies to the whole council. She feels the political tension is upsetting a lot of people. Whether or not you agree or disagree with the Mayor, the town is looking beautiful, downtown is vibrant, and more people are coming to town.

David Schneck, 302 C Street, stated he didn't understand the language in ordinance 2014-01 regarding wages for apprentices vs journeymen. He stated it's not our job to provide better jobs for people. Feels getting rid of the ordinance will allow us to move forward. Doesn't want to see changes made to the ordinance which would lead to another petition being filed because it's a lot of work to collect signatures. He did not understand why it was so important to get Council member Bean's opinion on the ordinance because they have never taken him into consideration before.

Wyatt Earp, Toms River, IBEW Local 400, stated contractors don't want employees running around that don't know what they are doing and people that hire them don't want that either. The citizens deserve to have a responsible job done. Doesn't trust two faced people. He stated state bidding laws don't allow for people to just hire whoever they want and pay them less so the responsible bidder ordinance has no negatives.

Council member Bean asked Mr. Earp if his union donated money to the Mayor's campaign. He did not know. Mayor Doherty stated his campaign has not received donations from any unions.

Judy Young, 303 Ninth Avenue, stated she had someone come to her door a few weeks ago and asked her questions about this topic and made some allegations. She applauds freedom of speech but feels people should also be respectful. The yelling is below us. Would like to see the Council work to stop legal fees and make this town civil again.

Fred Marziano, 208 Second Avenue, stated it is his understanding that less than 5% of the municipalities in the state agree with our bidder ordinance and questioned why the other municipalities are wrong for not agreeing. Council member Magovern felt if the ordinance works out maybe other municipalities will follow. Mr. Marziano stated he doesn't understand why the journeyman language was put in the ordinance in the first place. Mayor Doherty stated the ordinance had been introduced and between that and the second reading he spoke to some non union contractors who had some concerns and suggested the journeyman rate be added. He would like the Mayor and Council to be above board and ethical.

Council member Magovern stated he does not appreciate anyone accusing him of being unethical.

Bob Ahern, 511 Fifth Avenue, stated he has been in construction his whole life and asked if this ordinance is a way to circumvent paying prevailing wage. Mayor Doherty stated on any public project prevailing wage has to be paid.

Connie Dallaportas, 1002 Main Street, stated it doesn't matter union or non-union we need to protect the taxpayers and do what's best for the tax payers. She was concerned about streets being blocked for festivals and the affect it has on the businesses.

Mark Levis, 904 13th Avenue, stated he feels a lot of people forget how bad it was two years ago after Hurricane Sandy and people are out of their mind to think we wouldn't come out of that without debt. We can't keep having referendums and Monday morning quarterback sessions every time we don't get our way.

Joy DeSanctis, 101 Sixth Avenue, stated the issue with the apprenticeship program is that it's not just the state program but the fact the federal program is added on top of that. The petitioners are not against an apprenticeship program. She stated the Mayor mentioned four local towns have similar ordinances but that is false only two do.

Mike Seebeck, 110 Second Avenue, stated after the last meeting's discussion on the Lake Como outfall pipe, he did some research and found a town in Myrtle Beach who did a similar project and spoke with them. He suggested we look at what other towns have done and do some comparisons on what's been done and what works. Would like to see more open discussion amongst the Council on more issues and fight for the taxpayers.

Brendan Reed, 100 Ninth Avenue, thanked Council member Magovern for opening up the discussion on the ordinance. He feels having contractors who have unskilled laborers puts them at higher risk of workplace injuries and deaths.

Michael Druz, 1211 16th Avenue, stated there is only one apprenticeship program and that's the federal program. Comparing our pavilions to Manasquan and Avon is like comparing apples to oranges and we should be comparing apples to apples. The present council leadership is a star of other shore towns. Can't ignore that we have had no tax increase in four years and dared someone to find another town who has done the same.

Tom Dilberger, 1000 River Road, stated he is a union man but unions have deteriorated over the years because of interference by government offices and courts.

Kevin Duncan, Fair Haven, stated this building was built by a contractor with an apprenticeship program.

Maria Florio, 115 12th Avenue, expressed her concerns about the Belmar Inn and would like to see that building go.

Mayor Doherty made a motion to close the public session and adjourn the meeting, which was seconded by Council member Nicolay and approved unanimously.

Respectively submitted,

April Claudio
Municipal Clerk