

SPECIAL MEETING MINUTES

June 6, 2018

A regular meeting of the Mayor and Council of the Borough of Bradley Beach was held in the Meeting Room, 701 Main Street, and Bradley Beach, New Jersey on the above date.

CALL TO ORDER

Mayor Gary Engelstad opened the meeting with a salute to the flag.

Sunshine Law

The meeting has been noticed publicly according to the Open Public Meetings Act requirement for the “Annual Notice”, and posted on the official bulletin board.

ROLL CALL 6:00 pm

Present: Council: Weber, Goldfarb, Bonnell
Mayor Engelstad
Borough Attorney Michael DuPont
Municipal Clerk/Administrator Kelly Barrett

ON MOTION by Engelstad/Bonnell to enter into an Executive Session to discuss a litigation matter

ROLL CALL AYES: Weber, Goldfarb, Bonnell, Engelstad
NAYS: None
ABSENT: None
ABSTAIN: None

No Action taken

ON MOTION by Engelstad/Goldfarb to re-open meeting and re-enter into Executive Session to discuss a litigation matter and acquisition of land

ROLL CALL AYES: Weber, Goldfarb, Bonnell, Engelstad
NAYS: None
ABSENT: None
ABSTAIN: None

No Action taken

ON MOTION by Engelstad/Goldfarb to re-open the Regular Meeting

ROLL CALL AYES: Weber, Goldfarb, Bonnell, Engelstad
NAYS: None
ABSENT: None
ABSTAIN: None

PUBLIC COMMENT

Thomas Coan, 612 Third Avenue, stated that he had no issue with Councilman and Mrs. Cotler and the complaint filed against the borough was not personal. The complaint was regarding an ethics issue. He continued that he had found technical defects in the application for the Lobster Fest Event along with incorrect statements in the application to the ABC. The Chamber of Commerce should not be permitted to run this event as their non-profit status has been revoked. The State of NJ, Chief of Police and Clerk had not vetted the Social Affairs application properly. He presented a hand-out: Search for Charity website indicating the Chamber's status was non-compliant, IRS, Exempt Organization Select Check indicating the Chamber's status was revoked and a copy of the Social Affairs Permit application electronically filed to the ABC. He wished to note that Councilman Cotler entered the room, he stated, it was his understanding that the Councilman was not to be present at the meeting for the re-vote. Mr. DuPont stated, Councilman Cotler was permitted to be present for the meeting stated the court found no ethics violation, the court did not read briefs, hear testimony or legal argument the court was looking for an easy fix and Councilman. Councilman Cotler responded to Mr. Coan, you have continued to sue the borough, therefore, in order to avoid further suits and additional legal costs to the borough I will leave the meeting. Mr. Coan recommended the governing body vote NO to the resolution authorizing the Chamber of Commerce to sponsor the Lobster Fest.

Mr. DuPont stated that the borough had received a document dated August 21, 2004 from the State of New Jersey recognizing the Chamber of Commerce as a non-profit organization. The documents just received by Mr. Coan alleging the Chamber of Commerce's non-profit status being non-complaint means that they failed to register under the CRI Act. The revocation from the IRS is a result of the Chamber failing to file taxes which may be rectified. The Chamber of Commerce received approval from the State of New Jersey ABC. The information brought up this evening by Mr. Coan was not raised during the court proceeding. Mr. Coan did not submit any documents stating that the Chamber of Commerce was not permitted to do business.

A conversation ensued regarding the documents submitted by Mr. Coan. Councilman Weber expressed concerns regarding any money collected is subject to be taxed. He questioned Mr. Coan on the date of the handout and Mr. Coan responded that the date is listed on the email he had sent to the ABC. Councilman Bonnell stated he had requested in the past for the non-profit status be checked.

Maryann Preztunik stated that she does consulting for non-profit management. She continued that the issue at hand is not the Councils it is an issue for the Chamber of Commerce. The Chamber may rectify the matter with the IRS but it may take some time. She advised the Council that the IRS had done a sweep of the non-profits and at one time there were over one million in non-compliance. This revocation is not a good thing but it is an administrative revocation. The Chamber of Commerce may correct the situation by filing their taxes.

Mayor Engelstad requested Mr. DuPont's legal opinion/recommendation.

Mr. DuPont stated that a motion may be made to approve the Chamber of Commerce's Special Event application allowing for the Lobster Fest with the following stipulations:

1. Chief of Police review and approve all permits issued by the ABC.
2. Provide a certificate issued by the State of NJ stating the Chamber of Commerce is in good standing to do business.
3. Take the appropriate steps in order to comply with the IRS regarding the administrative revocation.

All of the conditions must be completed by the next Council Meeting of June 12, 2018.

Jim Shissias, 112 Fourth Avenue, stated that the Lobster Fest event is a burden to local residents with noise, littering and damage to the beachfront. He commented on the \$15K payment to the borough not being adequate.

Al Rappaport, 512 Newark Avenue, stated that he had been a Councilman in North Jersey. He was upset that Councilman Cotler left the meeting as he had the right to stay. He disagreed with Mr. DuPont's decision on allowing Councilman Cotler to vote on the Chamber of Commerce's request to hold the Lobster Fest. He continued, if there is even a hint of a conflict the member should recuse themselves. If there is any possibility that someone is opposed or uncomfortable with the vote, that member should not vote.

Mr. DuPont responded that Councilman Cotler's wife is a volunteer and not a member of the Chamber of Commerce. He referred to case law which states that there has to be an appearance of impropriety and it must be a matter of great importance. He continued, this is a small town and there was no direct or indirect benefit for Councilman and Mr. Cotler.

Mr. Rappaport stated that the Mayor and Council should be informed by the Clerk and Administrator of the status of a non-profit. The borough may be exposed to a tax liability for funds received from a non-profit that is not in good standing. The Chief of Police should also investigate the matter.

Mayor Engelstad requested Mr. DuPont to list the conditions/stipulations to be placed on the motion to approve.

Mr. DuPont listed the stipulation:

1. Provide a certificate that the Chamber of Commerce was in good standing to do business.
2. Chief of Police review and approve the Social Affairs permit.
3. Chamber of Commerce file the required form with the CRI in accordance with NJSA 45:17-A-26.
4. Chamber take steps to rectify the administrative revocation with the IRS.

Mr. DuPont noted, the borough should encourage all non-profits in town to update their information on the CRI website in order to be in compliance.

Ms. Barrett confirmed that the borough receives no monies from the Chamber of Commerce generated from the Lobster Fest event. The Passion Group pays the borough directly for all services provided, Police, DPW, i.e. along with the negotiated payment. Again, the borough does not receive any money from the Chamber of Commerce from the Lobster Fest event.

Julie Nutaitis, 605 Newark Avenue, expressed concerns regarding monies/donations received from the Chamber of Commerce. She stated that Mr. DuPont was incorrect as Mrs. Cotler was a member of the Chamber of Commerce. She continued that she did not mind the Lobster Fest but would rather it be held in September.

Henry Machos, 209 Third Avenue, stated in his opinion the \$15K received from the event was not enough. He questioned why no members of the Chamber attended the meeting in order for the governing body to receive feedback. He questioned the amount of money the Chamber makes off the event and where the money goes. He asked the Borough Attorney if the application was denied would the Passion Group sue the borough.

Mr. DuPont was unable to offer an opinion.

Councilman Bonnell stated that he had asked Shirley Ayres of the Chamber how much money was made and she was unable to answer the question.

Mayor Engelstad stated that we need to confirm that the Chamber of Commerce is a legitimate organization. He continued that Councilman Bonnell had polled the borough residents over an internet site and he received decent support in favor of the Lobster Fest event.

Larry Bagwell, 305 Park Place Avenue stated that the information entered in the application is either a mistake or a fraud.

Mayor Engelstad stated that we have to give the Chamber the opportunity to provide an explanation.

Resident, 108 Park Place Avenue stated that at he was opposed to the Lobster Fest as during past events people had knocked on his door asking to use his bathroom and was asking if they could take some of his flowers.

Eileen Shissias, 112 Fourth Avenue requested future Lobster Fest events be moved to the Second Avenue Park.

Jack Gentempo, Fourth Avenue was in opposition to the Lobster Fest event and was certain the borough would be able to raise \$15K elsewhere.

Sue Monroe, 500 LaReine Avenue, stated that we should do what is best for the borough the matter should have been re-voted as two of the Councilmen requested.

Mr. DuPont pointed out to the Mayor and Council that the special events applications states that if any of the information contained therein is incorrect the borough has the right to revoke the permit.

Mayor Engelstad made a motion to approve the Chamber of Commerce application to hold the Lobster Fest with conditions that must be met by June 12, 2018:

1. Provide a certification listing the Chamber of Commerce is in good standing
2. Chief of Police review and approve the Special Affairs permit issued by the ABC
3. The Chamber of Commerce register with the CRI (Charity Registry) prior to June 12, 2018
4. If the conditions are not met the permit will be revoked.

Mayor Engelstad stated that a lot of work has been put into the running of the event and wanted to ensure that the applicant and organizer of the event be advised immediately if the permit is revoked.

Councilman Goldfarb stated all condition must be met or he would not wish to proceed.

Councilman Weber stated that the application may be revoked now as the information contained in the form is not accurate.

Councilman Bonnell stated that the vote should be held off until June 12, 2018 in order to ensure the Chamber has complied with all of the conditions.

Councilman Weber responded that the borough is required to hold the vote tonight as per Judge Thornton.

Councilman Bonnell expressed concerns regarding the public's view of the Chamber's action as there may be some confusion as the Chamber of Commerce is the Bradley Beach COC. Some people may assume that the Borough is the same as the Bradley Beach COC. He continued that he had heard in the past that Bradley Beach was crooked. After becoming involved six years ago I have found out that is not true. He stated that he was not comfortable voting tonight but did not want to violate the Judge's order.

ON MOTION: by Engelstad/Goldfarb to approve the Chamber of Commerce request to hold the Lobster Fest at the beachfront promenade on June 23 & 24, 2018 with conditions that must be met by June 12, 2018

Councilman Weber stated that he works for a non-profit and is aware of what is required to comply with the state issued permits. He complimented the public on bringing the information to the Mayor and Council regarding the Chamber's non-compliance status. He stated that he requested the matter be re-voted on from the beginning. He continued that he was not confident with the conditions and voted NO to the application.

Councilman Goldfrab stated he was voting YES to the application with conditions.

Councilman Bonnell voted NO

Mayor Engelstad voted yes to the applications with the conditions.

ROLL CALL	AYES:	Goldfarb, Engelstad
	NAYS:	Weber, Bonnell
	ABSENT:	Cotler
	ABSTAIN:	None

Mayor Engelstad announced that the two – two vote results in a denial of the application.

ON MOTION by Engelstad/Bonnell moved to adjourn

Adjourn: 7:45 pm

Kelly Barrett, RMC, CMR
Municipal Clerk/Administrator

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