



BOROUGH OF LEONIA

REGULAR COUNCIL MEETING

~ Minutes ~

305 Beechwood Pl
Leonia, NJ 07605
www.leonianj.gov

Lynn Hemmer, Acting Borough Clerk

Monday, October 1, 2012

7:30 PM

Borough Annex

A Regular Council Meeting of the Mayor & Council of the Borough of Leonia, Bergen County, New Jersey, was held this evening in the Borough Hall Annex, Commencing at 7:30 PM

Mayor John DeSimone called the meeting to order.

1. FLAG SALUTE

Mayor DeSimone asked Council President Knott to lead us in the Pledge of Allegiance.

2. ROLL CALL

Attendee Name	Title	Status	Arrived
Peter Knott	Council President	Present	
Philip Choi	Councilman	Present	
Gil Hawkins	Councilman	Present	
I.S. Pak	Councilman	Absent	
Doug Salmon	Councilman	Present	
Darryl Whitter	Councilman	Present	
John DeSimone	Mayor	Present	
Jack Terhune	Administrator	Present	
Lynn Hemmer	Acting Borough Clerk	Present	
Brian T. Giblin	Borough Attorney	Present	

3. OPEN MEETING STATEMENT

Conditions of the Open Meeting Act have been met by Notice placed on the Bulletin Board at Borough Hall and notice sent to the Official Newspaper.

4. PRESENTATION

1. Personnel

Council President Knott read a prepared presentation to the Governing Body.

(Councilman Knott's Documents)

Presentation to the Governing Body in the Matter of Jack Peters

and Apparent Filing of False Work Activity Reports

Last week on Wednesday September 27, Mr. Peters the Building Inspector for the Borough of Leonia was given a Rice Notice that the Finance, Administration and Personnel Committee (which consists of Councilman Whitter, Councilman Hawkins and myself) intended to bring

matters pertaining to his employment for discussion and deliberation by the Governing Body this evening. In responding to the Rice Notice, Mr. Peters indicated that he preferred to have this in public, rather than in a closed Executive session of the Governing Body.

Therefore, I move that we agree to Mr. Peters' preference that this be held publically.

_____ (second).....All in favor.....

As you will remember, early in 2011 the Finance, Administration and Personnel Committee requested that Mr. Peters keep a log of his activities to provide information regarding the proportion of his time that he spends associated with his various positions within the Building Department. These logs enabled the Committee to determine that fewer hours should be assigned to Property Maintenance and subsequently that the hours associated with Code Enforcement should be increased.

Also you will remember that on September 7, 2011 the Finance, Administration and Personnel Committee recommended to the Governing Body that Mr. Peters be disciplined with one week's suspension without pay for his failings in the prosecution of an illegal basement apartment due to his false representation to Judge DeSheplo. The Governing Body voted to impose the suspension. Mr. Peters appealed this suspension and a hearing was scheduled with a special Hearing Officer Mr. William Rupp Esq. to adjudicate the appeal. After numerous postponements, the date for this Hearing was finally set for April 17 2012 where Mr. Peters was represented by his Attorney Mr. Evan Goldman and the Borough of Leonia was represented by Mr. Brian Giblin, Esq. The Hearing Officer Mr. William Rupp ruled in Leonia's favor supporting the Borough's position and supporting the proposed disciplinary action of the Governing Body.

The Finance, Administration and Personnel Committee now wishes to bring to the Governing Body details of additional matters which we believe also reflects impropriety on the part of Mr. Peters in his reported work activity in April this year and which are detailed below: However, we also believe that Mr. Peters or his attorney should also be provided the opportunity to respond before we make any recommendation to the Governing Body.

1. On the day prior to the Hearing, (Monday April 16, 2012) Mr. Peters sent an email (Appendix-Exhibit 1-Email April 16) to Borough Administrator, Jack Terhune which was also copied to the Council liaison to the Building Department, Doug Salmon and to Mayor DeSimone informing them, that the following day he, to quote, "will be attending a hearing for an appeal of the charges brought against me by the Mayor and Council some time ago, on Tuesday April 17 at 10 a.m. at the Borough Hall Annex"

April 17 was the day scheduled for this Hearing with the Hearing Officer, William Rupp.

2. Tuesday, April 17, 2012: Jack Peters was at the hearing presided over by Hearing Officer William Rupp. His presence during these proceedings can be verified by

the following individuals who also were present. Borough Attorney, Brian Giblin, Esq., Borough Administrator, Jack Terhune, Fire Marshal, David Haenelt and Ms. Yandoli. In addition Mr. Peters' Attorney, Evan Goldman Esq., was also present.

3. On Friday, April 20, 2012, just three days following the Hearing, Mr. Peters submitted daily work activity reports for the preceding three weeks. In his log Mr. Peters indicated that he was working throughout the day of April 17 (Appendix-Exhibit 2-Logs for week ending 4/20/2012). The Committee felt that this could not reflect a simple mistake with the date as the log for the remainder of the week had been completed and was submitted on successive pages. They also believed that had the log been completed contemporaneously with his daily activity this was not possible. It appears that Mr. Peters retroactively created his activity sheets for Tuesday April 17. Surprisingly, his log does not even reflect that he was at the Hearing that day, rather that he was working continuously from 8:30 AM until 8:00 PM engaged in such activities as "office work", "plan review", "property maintenance" and that he issued no less than 13 written warnings for "grass too high" and also covered the Building Dept. that day from 1:00PM to 2:00 PM when the Building Department Technical Assistant was at lunch. This false report was duly signed by Mr. Peters for that day to represent it as being accurate, which it clearly is not.

A subsequent similar misrepresentation occurred more recently.

In a Memorandum (Appendix/Exhibit 3/August 20 2012) Mr. Peters was notified by Borough Administrator Jack Terhune that the suspension without pay would be imposed on September 11, 12, 13 and 14, the equivalent of thirty-one (31) hours.

In email correspondence, Mr. Peters requested that he work one Monday (a day he is normally off) so that he could bank one day of comp time as he wished to attend the Firemen's Convention in Wildwood, NJ. Mr. Peters request was for "September 13 and 14" and Borough Administrator Terhune agreed to this (Appendix - Exhibit 4-Email re comp time for Firemen's Convention).

On a **Department Heads Attendance Records** sheet submitted to payroll (Appendix/Exhibit 5-Attendance Record) for the week ending September 14 which was also the week of his suspension, Mr. Peters indicated that **he worked 31 hours that week**. This was signed by Mr. Peters

This sheet also reported that (as had been pre-arranged) Thursday September 13 reflected the 8 hours comp time he accrued by working Monday August, 27 2012. (Appendix/Exhibit 6 August, 27 log). This was the day Mr. Peters had indicated on his August 27 log to be used as comp time "to swap with 9-13-12"

Therefore, only 8 hours "comp time" of the 31 hours was accounted for and this leaves 23

hours which were not worked. Mr. Peters was absent from Borough Hall for the entire week of his designated suspension (the week ending September 14 2012). Consistent with this is the fact that Mr. Peters provided a daily log of his activities for the preceding week (ending 9-7-12 and for the week following his suspension (ending 9-21-12) but not for the week of his suspension (ending Friday 9-14-12).

Thus, his submission of a signed Attendance Records sheet to payroll includes 23 hours which he did not work and amounts to $23 \times \$34.0787 = \783.81 (hourly rate is based on average for 31 hour week).

Additional Appendix Material:

Appendix - Exhibit 7 Daily logs for week preceding and the week following his suspension without pay.

Appendix- Exhibit 8-Firemen's Convention Wildwood, NJ

At this time Council President Knott suggested that Mr. Peters Attorney Mr. Goldman might want a chance to respond to the allegations.

Attorney Goldman decided to address the last issue at the beginning as it was his understanding that Mr. Peters has been an employee for over 28 years, also his understanding and a survey of other department heads is that the form called the "Department Head Attendance Record" is usually falsely prepared and filled out in advance, and it was done in this case, filled out in advance. There was a projected suspension the week of September 10, 2012. At this time Mr. Goldman was attempting to get a stay of the matter pending the filing of an appeal which has been filed, which he knows this is part of closed session, in which Mr. Goldman tried to get a stay, it was only the Friday before September 10, 2012 that Mr. Goldman notified Mr. Peters that he was going to be suspended that week and he was not to work. So what happened that Monday September 10, 2012? Mr. Terhune was not in his office. Mr. Peters who was not supposed to work and did not work did specifically come to Mr. Terhune's office to report to him that he was supposed to do something for Mr. Terhune that week but couldn't because he was suspended and as Mr. Knott noted he didn't put in a daily log for that week because he didn't work for that week. If he was trying to trick anyone or to do anything else why didn't he just make up the time on the daily log? He knew he was suspended. He went in and spoke to Mr. Terhune's secretary and said he was not going to be in that week; Mr. Goldman's not sure where Councilman Knott is getting his information from. But no one ever asked Mr. Peters which would be the normal course of events. If someone submitted something that was supposedly inaccurate what would be the first thing someone would do, "Gee let me ask Mr. Peters why he submitted a department head attendance record and he didn't work that week" and Mr. Peters would tell you exactly what I am telling you here

today. This is clearly retaliation for the appeal that was filed, and for Mr. Peters attempt to defend his action.

Let's get back to the day of the hearing, first of all the hearing did not take all day. It was a 2 ½ - 3 hour hearing that started at 10am and you are correct that perhaps Mr. Peters should have been more clear on that daily log sheet, but once again, if you look at what he did and he has done. Everything he put on that daily log sheet, he did. The hearing did not actually start taking place till 10:30am and he did go to the office first thing in the morning, he did do the office work he normally does every single day he attends work and all those citations that you see he actually filled. Mr. Goldman suspects that Councilman Knott never checked if Mr. Peters actually submitted those citations on that day because he did. Every piece of work that he put on that daily log he did on April 17, 2012. Why five (5) months later someone has a question, why wouldn't someone simply go to Mr. Peters and ask him "Gee what happened with regard to April 17, 2012; I thought you had a hearing that day", Mr. Peters would have explained to you exactly what I am explaining to all of you right now. Mr. Peters has been a loyal employee of this Borough for 28 years and together with his volunteer service in the Fire Dept. it would be 38 years. Mr. Peters has never once been accused of falsifying records or submitting any false time records at all. If this is limited to what the Council indicated he did with regard to Judge DeSheplo that's something for a high court to determine at some point but let's not incriminate his name any further. This is getting beyond out of control. It should stop now, why should this Council take any more time in dealing with simple personnel matters that could easily have been resolved well before this meeting by simply asking Mr. Peters. Thank you.

At this time, Borough Attorney Giblin recommends that the members of the Council consider this and do not take any action tonight but rather reflect on it and take action at the next meeting.

5. APPOINTMENTS

6. COMMENTS FROM THE PUBLIC

Steve Hutnik - 262 Leonia Ave, regarding the resolution that is listed on tonight's agenda for the "Junior Shooting Sports Program" Mr. Hutnik informed the Governing Body that the American Legion has in the past had competitions that provides scholarships in the amount of \$2500.00.

Paul Leibow - 145 Glenwood Ave, Mr. Leibow presented several suggestions regarding Councilman Knott's discussion at the last meeting, and the article in Leonia Life about store front art projects. Mr. Leibow mentions that ACS School has had in the past art auctions that many artists donate art for the Children and ACS and the money goes to the schools art program. About a year ago he started thinking of a good way of beautifying the town with art supplementing the brown paper in windows with actual art work. Councilman Knott brought up the discussion at a previous meeting about just putting art in the windows, good idea if the landlords are interested and town approves to fill up the whole window with art work it could be adults, artists, parent donating art work, not the actual artwork. In regards to the article it mentions about the liability of the actual artwork. You can have prints made of the art work, Mr. Leibow presented a picture of spider man that was hung on his son's wall, and it was put together with about 30 pieces costing approximately about \$100.00. No funds would be charged to the store owner, we could look into funding with the many art programs in town. One particular program Mr. Leibow mentioned was Leonia Arts could possibly apply for a grant.

Some of the art programs in town could be looked into as far as doing this. Start with one window at a time. Just something for the Council to think about as a way to display more art as they do with the sculpture gallery (sculpture garden) at the same time bring in some interest to town.

Councilman Hawkins - asked Mr. Leibow what can the Council do?

Mr. Leibow - wasn't sure what the process would be with the ideas. He understands that's the economic times are hard. Mr. Leibow explained that he felt this was a win/win situation, bringing art work into a town that appreciates art and at the same time helping possibly business rent their stores at some point. This is just the beginning; Mr. Leibow wanted to familiarize everyone about the ideas he has.

Councilman Hawkins feels this would be a relationship between the store owner/landlord and the artist. Councilman Hawkins as well as several others on the Governing Body agrees that this is a fabulous idea. Extremely happy about the idea of using copies of artwork and not the originals because of the liability it could cause.

Councilman Knott feels at this time the next step is to get in touch with the store owners/landlords and see if they are interested with the idea.

7. APPROVAL OF MINUTES

1. Council - Council Work Session Meeting - Sep 19, 2012 7:30 PM

Councilman Salmon made some corrections to the minutes in regards to the Special Bodies discussion on the Shade Tree Commission

RESULT:	ACCEPTED [4 TO 0]
MOVER:	Philip Choi, Councilman
SECONDER:	Peter Knott, Council President
AYES:	Peter Knott, Philip Choi, Doug Salmon, Darryl Whitter
ABSTAIN:	Gil Hawkins
ABSENT:	I.S. Pak

2. Closed Session Minutes Sept 19, 2012

8. RESOLUTIONS

Borough Administrator Terhune advised the Council that a resolution needs to be added to the agenda.

Resolution -2012-225, entering into a grant agreement with the County of Bergen for the ADA Renovation of the Recreation Center in the amount of \$91,000.00 that requires a resolution authorizing the Mayor to sign a contract on behalf of the Borough

1. RES-2012-220 Awarding Sylvan Park Maintenance Contract

Councilman Choi inquired what the last contract amount was. Borough Administrator explained that the last contract amount was \$16,500, and this year was \$14,327.00.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Darryl Whitter, Councilman
SECONDER:	Philip Choi, Councilman
AYES:	Knott, Choi, Hawkins, Salmon, Whitter
ABSENT:	I.S. Pak

2. RES-2012-221 Authorizing American Legion Post #1 Shooting Program

Councilman Whitter wanted to clarify that since the members of the American Legion have a Club License that it wouldn't be combined with the shooting program.

Mr. Hutnik reassured the Governing Body that one has nothing to do with another.

Councilman Knott reminded the Governing Body that the program is intended for High School students.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Darryl Whitter, Councilman
SECONDER:	Philip Choi, Councilman
AYES:	Philip Choi, Darryl Whitter
ABSENT:	Peter Knott, Gil Hawkins, I.S. Pak, Doug Salmon

3. RES-2012-222 CY2012 Best Practices

Councilman Hawkins questioned the Best Practices resolution stating that there was no backup attached to explain the process.

Borough Administrator Terhune explained that the backup documents were handed out at tonight's meeting. There was some confusion with the documents at the time that the agenda was being finalized.

Borough Administrator pointed out that looking at the documents you will notice in comparison to other municipalities the Borough of Leonia if one uses this document as a barometer is significantly ahead of other municipalities.

Councilman Hawkins asked Administrator Terhune to give the Governing Body a short briefing as to what the document tells us?

Administrator Terhune - what the documents tell the Governing Body and what it's intended to share may not be the same thing. This document was prepared by the Division of Local Government Services which is a Department of Community Affairs and its 50 different categories that are promulgated by the State of New Jersey in order to make Local Government more efficient.

Councilman Hawkins - is this the same thing that was put into action by Governor Christie two (2) years ago?

Administrator Terhune - explained that this was called the "tool box". He pointed out that by using the different criteria's, Leonia is doing very well.

Councilman Hawkins mentioned that he will pass this information on to Bill Russell

who is the head of the Green Team. The Green Team may be able to use this information and the achievement for their recertification.

Administrator Terhune added that here are some environmental issues listed but not many.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Darryl Whitter, Councilman
SECONDER:	Philip Choi, Councilman
AYES:	Knott, Choi, Hawkins, Salmon, Whitter
ABSENT:	I.S. Pak

4. RES-2012-223 ADA Cooperative Engineering Design Grant Agreement

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Darryl Whitter, Councilman
SECONDER:	Philip Choi, Councilman
AYES:	Knott, Choi, Hawkins, Salmon, Whitter
ABSENT:	I.S. Pak

5. RES-2012-224 ADA Cooperative Curb Ramp Construction Grant Program

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Darryl Whitter, Councilman
SECONDER:	Philip Choi, Councilman
AYES:	Knott, Choi, Hawkins, Salmon, Whitter
ABSENT:	I.S. Pak

6. RES-2012-225 2012 CDBG ADA Imp. Recreation Center

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Darryl Whitter, Councilman
SECONDER:	Philip Choi, Councilman
AYES:	Knott, Choi, Hawkins, Salmon, Whitter
ABSENT:	I.S. Pak

9. INTRODUCTION OF ORDINANCE

10. ADOPTION OF ORDINANCE

11. UNFINISHED BUSINESS

1. Storefront Art - Council President Knott

Councilman Knott explained that he has nothing to add to Mr. Paul Leibow’s presentation regarding store front art work earlier in the evening.

2. Time Warner - Borough Attorney Giblin

Borough Attorney Giblin - explained as previously corresponded with the Mayor and Council, that this is a continuation of the hearing that Time Warner started over a year ago. Time Warner needs to complete it in order to continue to provide service as talked about. Attorney Giblin was going to have Time Warner at the next meeting, but they need 45 days to notice the public and also another notice between 7 - 14 days. If its ok with the Mayor and Council Attorney Giblin

was thinking about the November 26, 2012 meeting, it appears to be when Time Warner can have the continuation hearing. Attorney Giblin doesn't anticipate it taking very long unless there is some objection Attorney Giblin will notify them.

12. NEW BUSINESS

1. Recycling - Councilman Hawkins

Councilman Hawkins, before you is a list of recycling that had been done in the town over the past three (3) years, to give you an idea of what you are looking at.

The first three pages of the document are from 2007, 2008, 2009. One of the things this document does show you is the tremendous amount of things that can be recycled, also what things that are actually recycled and what we don't recycle. It also shows residential and commercial breakdown of what we do in town and also the tonnage. It's important for you to know that these numbers are compiled by our recycling coordinator Mr. Al Martone.

Over the past 2/3 weeks it has come to Councilman Hawkins attention from several people in town that they thought the recycling program has dwindled, that the town wasn't doing as much recycling as they could. On the days when either paper or comingled containers were out, a lot of the houses were missing their contribution to recycle. Not only that, it also is important that people recognize the fact that recycling is the law.

Councilman Hawkins suggestions on how the program can improve:

- 1 - Enforcement, the DPW has the ability not pick up any resident garbage if it contains recycling materials.
- 2 - Neighborhood watch, alert the Police Department if you see anyone going through the garbage and taking thing out.
- 3 - Communication, find programs to teach the public about recycling, put information on website, etc.

Councilman Salmon added that there is constant change for the good in regards to recycling products, for instance, he attended a session at ACS School last year and learned that the wax containers that milk, and or juices come in can be recycled.

There has to be a way to communicate with the public as the list grows.

Councilman Hawkins, the point he is trying to make is we need to inform the public occasionally to get them back to thinking more about a sustainable society.

2. Leonia Sign, Fort Lee Road - Councilman Hawkins

Councilman Hawkins - Leonia Sign, with the additions to the new Overpeck Park entrance, and the new bridge, the amount of people would increase traveling on Fort Lee Road and going through the park he thought it would be a good idea to have a welcome to Leonia sign with the same character of other Leonia signs but perhaps bolder to let the public know they are in Leonia. Councilman Hawkins recently spoke to the County Parks Director about this idea and

was told that a sign would be appropriate as long as it wouldn't interrupt with any park activities. Councilman Hawkins will look into proposals and submit them to the County for approval.

Councilman Whitter clarified that Council Hawkins was referring to east from 95, before you get to the new entrance along Fort Lee Road.

3. Paper Shredding - Councilman Choi

Councilman Choi explained that it has come to his attention from the community that the residents are interested in having the paper shredder machine in the Borough on a monthly basis.

Borough Administrator Terhune's response to Councilman Choi was as Councilman Hawkins indicated in his earlier report. The BCUA has a contract with a commercial shredding company which we have already enrolled in getting the shredding machine once a year for free. Leonia used their free shredding period at the Leonia Day event. If Councilman Choi would like Administrator Terhune would explore additional dates and would find out what the additional expense it would cost.

4. Best Practice Public Meeting Certification - Administrator Terhune

Borough Administrator reminded the Governing Body that this subject was already discussed with resolution 2012-222.

13. COMMENTS FROM THE PUBLIC (Agenda and Non-Agenda items)

Steve Hutnik - 262 Leonia Avenue, explained to the Governing Body that he taught in Matawan for over 34/35 years and that the store fronts enlisted the high school students along with the art teacher to do projects with paper covering the windows with scenes like the Monet Gardens, another idea perhaps the Borough can go with.

Leah Roland - 186 Crescent Avenue, mentioned that perhaps Councilman Knott might want to consult with the down town revitalization subcommittee of the economic development committee regarding idea for the storefront art project.

Ms. Roland also has some ideas about improving the recycling issue that Councilman Hawkins brought to the Governing Body's attention earlier in the evening. Ms. Roland feels that the borough has an excellent distribution mechanism which is the DPW. The DPW gets to every resident, every apartment building, and businesses. Ms. Roland suggested that stickers be put on the doors of the residents that forget to put out their recyclables, or preprint flyers double sided with 2 languages on it, in English and Korean, explaining the recycling program, and updating the list of recyclable products. At the same time explain that not only benefits the Borough, it's also is an advantage for the residents.

14. CORRESPONDENCE

15. CLOSED SESSION

Motion whitter , seconded by knott

1. Litigation

End close session

initator - hawkins

second - Knott

16. ADJOURNMENT

Councilman Hawkins made a motion to adjourn the meeting seconded by Councilman Choi.