

BOROUGH OF LAVALLETE (minutes)
REGULAR MEETING OF THE MAYOR AND COUNCIL
LAVALLETTE FIRST AID BUILDING
Monday, May 19, 2014-7:00 pm

CALL TO ORDER: Mayor Walter G. LaCicero, presiding

ROLL CALL: Council Members Borowski, Zalom, Filippone, Lamb, Horan and Stogdill

Also present: Christopher F. Parlow, Borough Administrator/Municipal Clerk
Eric Bernstein, Borough Attorney
Donnelly Amico, Deputy Municipal Clerk

READING OF THE OPEN PUBLIC MEETINGS ACT STATEMENT: Notice of this meeting complies with the Open Public Meetings Act. Public Notice was published in the Ocean Star on January 10, 2014. Notice was also posted on our municipal website.

MOMENT OF SILENCE: The Mayor asked for a moment of silence for our troops overseas and the miners in Turkey.

PLEDGE OF ALLEGIANCE: Councilman Stogdill led us in the Salute to the Flag.

MAYOR'S WELCOMING STATEMENT: The Mayor thanked everyone for coming out to tonight's meeting. He stated that this is the last meeting before Memorial Day Weekend. He reported that there was a meeting today with the Commissioner of the DOT and he walked through the town checking out the road work being done. By looking at the shape that we were in he decided to postpone the road work through the summer. The last day the road work will be on is June 13, 2014. The Governor canceled the May 22nd press release in Lavallette also. He guesses that the Governor did not want the bad publicity. He stated that he has spoken to a number of realtors in town and they advise him that rentals are good this year.

COMMENTS FROM PUBLIC: (Items not listed on Agenda/not staying for remainder of meeting)

The Mayor asked if anyone wished to comment on any items that were not on the agenda or if they could not stay for the remainder of the meeting they could do so now.

No one wished to comment at this time.

Mayor LaCicero closed the floor to public comment.

PUBLIC HEARING:

Place-to-Place Liquor License Transfer Application-Lenny's Pizzeria

The Mayor provided the floor to Philip Mylod, Esq, who represented Phil and Benny D'Aloisio owners of Lenny Pizzeria. Mr. Mylod presented the application for Place To Place Liquor License Transfer.

Mr. Mylod stated that Phil and Benny D'Aloisio have been a part of this community for well over 20 years. This matter was heard once before in 2007 for a restaurant across the street. We are here again to request the rescinding of the Ordinance with the 1500 foot proximity for liquor license establishments. We feel that it is an unreasonable ordinance. Back in 2007, there was a planner who spoke of how unreasonable the ordinance was and a planning board report with reasons why the Ordinance should be rescinded. At that time, there was a motion to amend the ordinance but it was turned down due to public sentiment. This application tonight is no different than in 2007 except for the fact that you have an establishment that has been run without any problems. You can already BYOB (bring your own beverage) when you go there for dinner. We can already see what is going to happen tonight with the amount of people that are here. So in order not to stir up any more animosity for tonight we are submitting this Place to Place Transfer application and we are not looking for a motion to rescind the ordinance but just a denial of the application. Once we are denied we will be appealing the denial to the State. This is just a procedural step to start the appeal process.

Mayor LaCicero stated that he appreciates the fact that Mr. Mylod would like to keep this brief. He stated that he would just like to acknowledge the letters we received on this transfer. We received letters of opposition from Michael Vastola, Corey Wingerter, Wexford Condo Association, the Chamberlains, the Farfallas and Adams was OK with it as long as it was not a bar. Pells, Andrews, Sharkey and Renda all were opposed also. Unfortunately, we can not approve or deny the transfer due to the Ordinance we have on the books.

Mr. Bernstein stated that acceptance of the 2007 transcript does not waive any rights. This is a Place To Place Transfer which cannot be allowed without amending the ordinance and with that we would need two readings, a hearing and an adoption so this will have to be rendered mute.

Council President Zalom stated that this family works very hard in this town and always volunteer. They are stellar businessmen and go out of their way for this community. They are always involved in our events, our volunteer work and are just great people. We need to really think about this for one of our own.

Council President Zalom stated that she would like to make a Motion to rescind the Ordinance for the 1,500 foot proximity. The Motion was seconded by Councilman Horan. Vote: Council Members Zalom and Horan voted Yes. Council Members Filippone, Stogdill and Lamb voted No. Councilman Borowski Abstained. The Motion Failed.

Councilman Borowski stated that to make the restriction 1,500 feet to zero feet is just not appropriate and he feels it is just a knee jerk reaction. He was not a part of this in 2007 and feels his abstention is sufficient.

Mr. Wingerter spoke up from the audience and questioned why no one was able to speak about this transfer. He thought this was a public hearing.

Mr. Bernstein stated that this was not a public hearing it was a place to place transfer application.

Mr. Mylod stated that he would like Council to vote on the transfer whether they are approving or denying the application. In 2007, there was never any vote because the applicant withdrew the application. We would like a further step tonight by voting on this transfer application.

Councilwoman Filippone stated that there is no legal way other than to vote yes to deny the application. This vote is totally ludacris and not necessary and she finds this to be an illegal action to determine a transfer.

A Motion was made by Council President Zalom to deny the Lenny's Place to Place Transfer Application – Resolution 2014-155B. The Motion was seconded by Councilman Horan. Vote: Council Members Borowski, Filippone, Zalom, Stogdill, Horan and Lamb voted Yes. The Motion Passed.

The Place to Place Transfer Application was denied.

APPROVAL OF CLERK'S MINUTES:

Caucus/Regular Meeting of May 5, 2014

A Motion was made by Councilman Horan to approve the minutes. The Motion was seconded by Council President Zalom. Vote: Council Members Borowski, Filippone, Zalom, Stogdill, Horan and Lamb voted Yes. The Motion Passed.

RESOLUTIONS-ON CONSENT:

- 2014-141 appointing Taylor Gargaloni as beach badge office staff for the 2014 summer season

- 2014-150 approving a special event/facilities use application for the Marine Science Camp to hold their science camp from July 7, 2014 through August 8, 2014 from 9am to 2pm down on the bay front

- 2014-151 authorizing the Treasurer to issue a check in the amount of \$8,217.59 to US Bank for the redemption of a tax sale certificate

- 2014-152 imploring Congress to prevent the diversion of Sandy Aid from New Jersey

- 2014-153 authorizing the disposal of surplus property through GovDeals

- 2014-154 appointing 2014 summer seasonal employees for the Department of Public Works

- 2014-155 awarding a contract to Garden State Fireworks for our Fireworks Display to be held on July 6, 2014 with a rain date of July 13, 2014

2014-155A appointing Brendan Brice as a full time laborer for the Department of Public Works commencing June 1, 2014

A Motion was made by Councilman Horan to approve the consent agenda. The Motion was seconded by Councilman Stogdill. The Mayor opened the floor to public comment and asked if anyone wished to comment on the consent agenda.

Jon Corney, 1 Newark Avenue questioned why the resolutions do not have the dollar amounts for employees when hired.

Mayor LaCicero stated that on the table there is always one packet for the public that has all the resolutions with the hourly rates and salaries of employees who are hired.

There were no additional comments from the public. The Mayor closed the floor to the public and asked Council for a vote on the consent agenda.

Vote: Council Members Borowski, Filippone, Zalom, Stogdill, Horan and Lamb voted Yes. The Motion Passed.

RESOLUTIONS-OFF CONSENT:

There were no resolutions off consent.

APPROVAL OF VOUCHERS:

2014-156 Bills list in the amount of \$459,888.15

A Motion was made by Councilman Horan to approve the bills list. The Motion was seconded by Councilman Stogdill. Vote: Council Members Borowski, Filippone, Zalom, Stogdill, Horan and Lamb voted Yes. The Motion Passed.

UNFINISHED BUSINESS:

Lavallette Business Association-Lavallette Boardwalk Hours of Use for Bicycles

Mark Speaker, LBA President stated that the LBA is requesting that the bicycle hours on the boardwalk be extended until 7pm due to the conditions of the roads from the construction project. He stated that they are concerned with the safety of our residents and children. There is a lot of temporary paving on these roads that is not safe for bicycles to ride on and we are just trying to find an easy solution. We welcome everyone's opinions.

Council President Zalom stated that years ago this same request came up and the Chief took a look at and recommended bicycles be allowed up there until 5pm but it did not go anywhere then. This should be thought about seriously for this summer due to all the road construction and

considering the safety of our residents and visitors, especially the children. Next year we will have a bike lane on the highway but should be considered for this year at least.

Councilwoman Filippone proposed that we hear from the public before making a decision.

The Mayor opened the floor to public comment and asked if anyone wished to comment on this topic.

Gary Hunsinger, 8 Philadelphia Avenue stated that he walks up on the boardwalk and rides a bike but finds the people up on the boardwalk who ride bikes are racing up and down the boardwalk. He stated that if you are going to have the bicycles up there longer the police will have to have some type of control with the speed.

Clem Boyers, 20 Kerr Avenue stated that it sounds like a great idea until a kid gets hit crossing the boardwalk for ice cream.

Bob Astorino, 2 Elizabeth Avenue stated that it is a great idea but there are so many walkers up there and joggers it would be a crowded mess.

Chris Chamberlain, 401B Grand Central Avenue stated that he is a cyclist and he does not think it is a very good idea for bikes on the boardwalk just like not being allowed on the sidewalks. If we just sweep the streets and keep the debris off the shoulders we should be fine riding bikes. A lot of bikers go the wrong way which is a problem also.

Patricia Doles, 14 Bryn Mawr Avenue, stated that most of the walkers are up there from 6am to 8am. She never sees bikes up there until after 8:30 or 9am so make the bikes up there from 8:30 am to 7pm. The boardwalk is definitely not a place for cyclists but it is a place for casually bike strolls with your family and kids.

Megan Anderson, 20 New Brunswick Avenue stated that she would like to be able to take her kids for ice cream on the boardwalk with their bikes. She loves this town but she has two toddlers that have bikes now and have no place to ride them ever. She would like for the council to try it and see how it works out. She stated that the road construction is a mess, there are nails everywhere and debris and uneven paving. We need to try this for the safety of our residents.

Al Jones, 113 Reese Avenue stated that in all his years in Lavallette he has been hit by bikes on two different occasions by bicyclists going the wrong way on the highways. The problem is the Police Department does not enforce the bike laws as strong as they should and because of that changing the bikes to the boardwalk would make it safer for everyone.

Marlene Chamberlain, 401B Grand Central Avenue stated that she has been hurt twice on the boardwalk by bicycles. She asked if any thought has been given to creating a bike lane.

Mayor LaCicero stated that after the highway project is completed we will have a bike lane.

Jon Corney, 1 Newark Avenue stated that everyone on that boardwalk thinks they own the boardwalk whether it be the walkers, runners, bikers and the baby carriages. Maybe we should use a chalk line down the middle of the boardwalk and have one side for the bikers and the other side for everyone else.

Council President Zalom stated that 48 years ago the then Police Chief was so concerned about the children riding their bikes on the highways that he made it mandatory that children had to ride their bikes on the boardwalk. Back then we did not even have as much traffic and people as we do now. We need to at least give it a try for just this summer.

Councilman Stogdill stated that he goes up there on weekends in the summer and sees the badge checker supervisor with the golf cart and the walkers, joggers and beachgoers and it is so congested. For bikes to also be allowed up there all day would be crazy and there would be no room to move.

Councilman Lamb stated that we have had this same conversation every year now. The boardwalk is too narrow to accommodate everyone and the bikes. It is just not feasible.

Council President Zalom stated that this is a special year and we have a ton of road work along the highways for our kids to be on the highways.

Councilwoman Filippone stated that she has always been consistent with not agreeing with the bikes on the boardwalk. Our bicyclists in town do not follow the laws as far as going the wrong way on the highways. She stated that the police department has gone as far as confiscating bicycles going the wrong way. It is not wide enough for all those people as it is and to add bicycles to the mix would be just crazy.

Councilman Borowski stated that being on the First Aid he has seen the incidents that happen up there on the boardwalk. It is just too busy up there and he can not support the bicycles up there.

A Motion was made by Council President Zalom to extend the bicycle hours on the boardwalk until 7pm. The Motion was seconded by Councilman Horan. Vote: Council Members Zalom and Horan voted Yes. Council Members Borowski, Filippone, Stogdill and Lamb voted No. The Motion Failed.

Beachfill Project Update

Mr. Parlow stated that the latest revision to the beachfill project provided one handicap accessible ramp on Philadelphia Avenue and one vehicle access on Ortleby Avenue. We have requested an additional vehicle access on Philadelphia Avenue and handicap accessible ramps on Jersey City, Brown, Trenton, Elizabeth, Pennsylvania, Brooklyn, Camden, Magee, President, Bond and White Avenues. We have also requested an answer as to why the beach width in Westmont Shores area is smaller than the rest of the beaches. Also included in the update was the notification that we are reconstructing the pavilions back to their same locations. Also, the original plans appear to have the ramps for the access ways starting on the end of the street end; so we are looking for clarification that the ramps will start on the eastern edge of the boardwalk.

We also requested the viewing areas are installed on both the pedestrian and handicap ramps. Unfortunately, we can only give our recommendations to the DEP and they forward them on the Army Corps.

Council President Zalom stated that she has spoken with the County about Vance Avenue and Bay Boulevard and they have agreed to take care of the whole shoulder of the road as far as the sidewalk and curbing and cleaning it up.

Mayor LaCicero stated that he received numerous calls this week about the water/sewer bills. There seems to be some confusion about the 5,000 gallons of usage and getting that credit on those gallons.

Mr. Parlow stated that we need to clarify who would get those gallons credited and who would not. If you used over 5,000 gallons per quarter you would be entitled to a credit for the first 5,000 gallons. If you just had minimum usage under 5,000 gallons, you would not be entitled to the credit at all. The water meters themselves never stop functioning after the storm; it was the remote electronic reading devices that are failing. Because of this a number of accounts received bills that provide no usage and minimum charges. These accounts should have billed for usage. When the meters were changed-out for the new meters the usage was recorded on the old meter and the subsequent bill was calculated using the combined usage from the old meter and the new meter. If you had more than the minimum 5,000 gallons of usage you would be entitled to the credit but not if the usage was under 5,000 gallons. As far as knowing who had more than the minimum usage is difficult to calculate. In Lavallette, it is not unusual for having minimum usage and a minimum charge bill. The entitled credit, if applied, would be \$36.75 per quarter.

Mayor LaCicero stated that we would have to discuss this further at another time.

NEW BUSINESS:

Rite Aid requesting to hold their "Welcome Summer Event" on June 14, 2014 from 9am to 2pm

Mayor LaCicero stated that this is an annual request.

A Motion was made by Councilman Horan to approve the Rite Aid event. The Motion was seconded by Councilman Stogdill. Vote: Council Members Borowski, Filippone, Zalom, Stogdill, Horan and Lamb voted Yes. The Motion Passed.

COMMENTS FROM THE PUBLIC:

Mary Logios, 4 Sterling Avenue stated that there is no boardwalk after Ortle Avenue is there any plans for any handicap accessible ramps down at that end any time soon.

Mr. Parlow stated that the plans, as provided to the Borough, only shows handicap accessways at the locations where they previously existed.

Mrs. Logios questioned if they could request one down at that end for the residents down there.

Mayor LaCicero stated that we are pushing hard to get what is needed. We can also request that with our CDBG funds grant. We will work hard to get something down there for those residents.

Mrs. Logios questioned what street ends would be open again this year.

Mayor LaCicero stated that they were not sure as of yet.

Mrs. Logios questioned whether or not the Police presence and the stop signs and crossing would be done again this year.

Mayor LaCicero stated that it would all be there again this year.

Mr. Parlow stated that the Army Corps access ways to the beach will be different. They will be made of compact roads stone and not made of decking.

Corey Wingerter, 20 Bond Avenue stated that he was a former Mayor and also a former member of a Planning Board. He stated that he was confused about tonight's public hearing on the transfer. The applicant advertised that it was a public hearing and that the public would be able to comment on the transfer at the hearing. He does not believe the action taken tonight is valid.

Mr. Bernstein stated that it was a place to place transfer not a public hearing. What the applicant had to do was notify the public on what type of application was going to be heard.

Mr. Wingerter stated that this transfer has nothing to do with how well liked the applicant is or whether they or good people or bad people it is about the law and what is legal and what is not legal.

Mayor LaCicero stated that is why they decided not to make it a public display of animosity again and he hopes that that does not happen tonight.

Gail Stefanelli, 122 Camden Avenue stated that she would like to put in a request for the town to revegitate the bay front. The bay front is very hazardous to residents and vehicles right now with it being very sandy with stones and rocks blowing.

Councilman Lamb stated that Public Works was in the process of getting prices on hydroseed which he thinks will help with the sand blowing situation.

Mrs. Stefanelli stated that another factor is that the area in question is used as a heliport for medical transport if necessary and it would be a severe hazardous situation if all those rocks and stones started whipping around.

Marlene Chamberlain, 401B Grand Central Avenue stated that her and her husband, who is a pilot love Beth and Benny and go to dinner there frequently. We live next door to the establishment and would not welcome the noise at all hours of the night. With her husband being a pilot it is crucial that he gets his sleep.

Michael Vastola, 19 Bond Avenue stated that he is here to object to the changing or modifying of the Ordinance regarding the distance of 1,500 feet. Nothing has changed to make a need to change this ordinance. The town runs very smoothly as it is. This ordinance has been in place for thirty years without any problems or issues or complaints.

Erin Brower, 1900 Ocean Front stated that everything has changed in this town since Sandy. The residents of this town should be helping each other and having compassion for all. This license is Lavallette's license which really makes it a part of the community. This business was up and running days after the storm and was the only restaurant that was available for the people who were trying to get their houses back. They fed us all for free and never even asked for anything in return. They too love and respect this town and that is why they are so involved with everything and volunteer for everything. We should all be a little bit more like them.

Jon Corney, 1 Newark Avenue questioned how this 1,500 foot ordinance came into play.

Council President Zalom stated that it had to do with the old Schoolhouse Inn which was the only real restaurant/bar at that time and somebody else who wanted to open another bar/restaurant establishment at that time. At that time, things were done differently.

Mr. Corney stated that he is in favor of changing the 1500 feet distance.

Larry Vecchio, 2100 Grand Central Avenue stated that he loves town and sitting here listening to all of this is literally giving him a sick feeling in his stomach. We need to just change the ordinance for the good of the town.

Anita Zappacosta, 101 Newark Avenue stated that she disagrees with not allowing the transfer and not changing the ordinance. It is hard enough for small businesses to get by today with the challenges they have why would not we want to help out a business in town and make it a little easier for them.

Bob Astorino, 2 Elizabeth Avenue stated that if this establishment was four blocks away from where it is it would not be a problem.

Clem Boyers, 20 Kerr Avenue stated that the biggest problem that is the main problem is the delivery trucks that would have to park on the side street for deliveries. When you have four or five liquor trucks delivering every day at all different times all year it gets to be a little too much.

Chris Chamberlain, 401B Grand Central Avenue stated that his bedroom window is right next to the restaurant. It would affect his sleep which will in turn affect his job as a pilot. He stated that with that said, he will vigorously pursue this if it changes in any way.

Erin Brower, 1900 Ocean Front stated that once again this license belongs to Lavallette. If Lenny's decides to sell this license to an investor and they buy down at the other end of Lavallette and use it there it would be the same thing. She does not understand what the problem

is. Everyone here bought in a resort beach town and knew what they were doing. We have one restaurant in town with a bar which is absolutely ridiculous.

COMMENTS OF THE MAYOR AND COUNCIL MEMBERS:

Councilman Lamb thanked Council for supporting the hiring of Brendan Brice for the Public Works Department. He stated he has a letter that he will make sure is on record from the Superintendent of Public Works, Gary Schlosser, recommending him for the position. Brendan is a member of the Fire Department and the Water Rescue and has been a resident along with his family since he was born. The Public Works Department needed another full time employee. We had twenty-one employees at one time and are still down to eighteen right now.

Councilman Stogdill stated that the pre-season badge sales are up 53% from last year at the same time. We are starting off great this year.

Mayor LaCicero asked if he could bring 2012 report next time for comparison.

Councilwoman Filippone stated that she is happy that they voted last year to not require the parking stickers until the season opens instead of Memorial Day Weekend. She also stated that in 2007 regarding the place to place transfer the Planner, Mr. Gemma, was not in favor of the transfer. She stated that this hearing has nothing to do with how great the people are it has to do with what is right and the law on the books. The amount of liquor licenses is determined by the population of a town. The ordinance is there for a reason. The liquor license is owned by the person who purchased it not the town of Lavallette.

Councilman Horan stated that hurricane season will start June 1st so everyone should make sure they have everything in order just in case.

Councilwoman Filippone stated that she apologizes for her previous comments about the parking stickers. Apparently, we discussed changing the time frame when they would be needed but we never voted on doing it. Parking stickers will be needed the Friday of Memorial Day weekend until September 1, 2014.

Council President Zalom stated that we had our ground breaking for our Municipal Building last week. Scott Madden a long time resident born and raised here is a full time firefighter in Paterson, New Jersey and there was a picture of him in the paper of him saving a woman in a fire from the second floor. He is also a volunteer firefighter for the Borough of Lavallette. Commissioner Simpson of the DOT was here today checking out the progress of the road construction and he was so shocked by what he saw that he decided that all road work would stop as of June 13, 2014 and not commence again until September. See you all at the Memorial Day Services on Monday.

Mr. Parlow stated that the fire truck that was damaged is finally going to be removed this week. He stated that he had a conference call today with the State DCA and we were not approved for the \$42,000 we applied for through the Essential Services Grant. The first phase of funding for disaster relief was the Community Disaster Loan that we applied for and received 2.7 million.

This grant was the 2nd phase of available funding and we applied for the maximum amount established by formula, which was \$42,025. We completed the application and submitted a number of required reports. Mr. Parlow reported that the DCA stated that the reason we did not qualify was because our revenue numbers post-sandy we too strong. We basically recovered to quickly and now we are being penalized. He stated that we should have given out free services and utility bills in order to create a deficit, that way we would have met the qualifications.

Councilman Borowski questioned if this was the grant that affected the adoption of our budget.

Mr. Parlow stated that was it was.

Mayor LaCicero stated that he guesses you pay the price for doing the right thing eventually. He stated that he has asked Matt our IT guy to take a picture of the progress of the Municipal Complex every day at the same time. The construction of the pavilions has started. They have pushed the dunes back a bit to construct and put up the pilings and will put back all sand accordingly.

EXECUTIVE SESSION:

Mr Bernstein stated that there is a need for an executive session to discuss some contractual negotiation matters. There will be no action taken.

A Motion was made by Councilman Horan to adjourn the Regular Meeting to go into executive session. The Motion was seconded by Councilman Stogdill. Vote: All of Council was in favor. The Motion Passed.

The Regular Meeting was adjourned to go into Executive Session at 9:25 pm.

A Motion was made by Councilwoman Filippone adjourn the Executive Session and reconvene the Regular Meeting. The Motion was seconded by Councilman Stogdill. Vote: All of Council was in favor. The Motion Passed.

The Regular Meeting was reconvened at 9:35pm.

Mr. Bernstein stated that while in Executive Session there was a brief discussion about the status of the union negotiations. No formal action was taken.

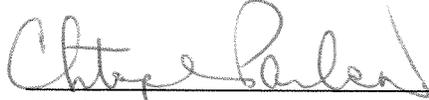
ADJOURNMENT:

A Motion was made by Councilman Stogdill to adjourn the Regular Meeting. The Motion was seconded by Councilwoman Filippone. Vote: All of Council was in favor.

The Regular Meeting was adjourned at 9:36pm.

CERTIFICATION

I, Christopher F. Parlow, Municipal Clerk of the Borough of Lavallette, County of Ocean, State of New Jersey, does hereby attest these to be a true copy of the minutes of the meeting held on the **19th** day of **May 2014**

A handwritten signature in black ink, appearing to read "Christopher Parlow", written over a horizontal line.

Christopher F. Parlow
Municipal Clerk