

August 9, 2017  
6:00 PM

A caucus meeting of the Mayor and Council of the Borough of West Long Branch was held on the above date and time in the Council Chambers, Borough Hall, 965 Broadway, West Long Branch, N.J.

Mayor Janet W. Tucci presided.

Mayor Tucci reported that in accordance with N.J.S.A. 10:4-6 adequate notice of this meeting of the Mayor and Council has been provided.

PRESENT: BRAY, JULIANO, MANGO, MIGLIACCIO, NEYHART, PENTA  
ABSENT: NONE

**BOROUGH CLERK COLE:**

1. The Borough Clerk received the following letter, dated June 14<sup>th</sup>:

*Dear Members of the Council:*

*Please be advised that this office represents Jose G. Leao who operates the Rodeio Grill and Restaurant located at 78 Oceanport Avenue, West Long Branch, NJ.*

*Mr. Leao has an opportunity to purchase a liquor license, referenced above, from TMJC Enterprises LLC. However, his establishment, Rodeio Grill and Restaurant is located across the street from Zachary's Restaurant, 71 Oceanport Avenue, West Long Branch.*

*The proximity of Zachary's to the Rodeio Grill and Restaurant would prevent a transfer of the liquor license as it violates West Long Branch ordinance 6-6.3 which indicates as follows:*

*No establishment, licensed pursuant to this chapter shall be located within a distance of One Thousand (1,000) feet from any other establishment licensed pursuant to this chapter nor shall it be located within One Thousand (1,000) feet of any church or school.*

*This ordinance would prevent Mr. Leao from purchasing the liquor license.*

**BOROUGH CLERK COLE: (Contd.)**

*The One Thousand (1,000) foot restriction places a substantial restraint on the ability of TMJC Enterprises, LLC, to transfer the license to virtually any establishment within the confines of the Borough. As you are aware, the Borough of West Long Branch consist of three (3) square miles. Accordingly, there are not many locations within the Borough available for such an operation.*

*The Rodeio Grill is a family oriented restaurant. If the Borough were to permit Mr. Leao to purchase the liquor license and utilize it at his present location, all alcoholic beverages would be consumed on the premises as an adjunct to the sale and consumption of food, which is served in a traditional restaurant group seating style. The restaurant would adhere to all other requirements within the ordinance for the sale of alcoholic beverages as well as any applicable state statutes. We respectfully submit that there would be no detriment to the municipality now or in the future to amending the ordinance to permit a licensed establishment within One Thousand (1,000) feet of another licensed establishment. The municipality can substitute other objective criteria to regulate placement.*

*Please note, that the owners of the liquor license, TMJC, LLC, are aware and are and ready to join us in our request. Note, we are available to provide any information in which you may require to give our request due consideration.*

*Very truly yours,  
PAUL R. EDINGER*

The Borough Clerk advised that Title 33:1-76 states that "no license shall be issued for the sale of alcoholic beverages within two hundred feet of any church or public schoolhouse or private schoolhouse" and that the distance is "measured in the normal way that a pedestrian would properly walk from the nearest entrance of said church or school to the nearest entrance of the premises sought to be licensed." Also, the Borough Clerk indicated that she researched the distance requirement in other municipalities and posted some examples in Dropbox for the Council's consideration. This matter was referred to the Ordinance Review Committee to discuss and submit a recommendation to the rest of the Council.

### **BOROUGH ATTORNEY BAXTER:**

1. The Fire and First Aid Committee and Borough Attorney met with the Emergency Services Records Administrator, Assistant Fire Chief, and the Captains of both fire companies on July 26<sup>th</sup>. The purpose of the meeting was to ensure that those present were familiar with and understood the procedures regarding LOSAP. The Borough Attorney prepared a memorandum to the Mayor and Council, dated August 1<sup>st</sup>, which outlined what was discussed. He noted that his memorandum contained an error in the procedure; namely, that the Council adopts a resolution approving the certified list and then it is posted for thirty days. The Borough Clerk reported that the Emergency Services Records Administrator provided her with a letter, dated today, stating that he agreed to certify the list of LOSAP-eligible firemen from Fire Company No. 1 except for Dennis O'Rorke because he had "collected his LOSAP funds and was removed from the program." The Borough Attorney pointed out that this issue was addressed during the July 26<sup>th</sup> meeting, and the Emergency Services Records Administrator was informed that Dennis O'Rorke never resigned from the Fire Department and was, therefore, still entitled to LOSAP participation. The Borough Attorney confirmed that the Council can discuss abolishing the program next year.
2. The Ordinance Review Committee met again and made some more changes to the proposed truck and van ordinance. The Borough Attorney will e-mail the latest draft to the Borough Clerk to forward to the Mayor and Council for their review.

### **MAYOR TUCCI:**

1. The Dot Schulze Agency was recently sold to Diane Turton Realtors. It was suggested that the Mayor and Council consider presenting a certificate to Dot Schulze in recognition of her thirty years of business in West Long Branch.

Councilman Bray moved that the Council enter Executive Session at 6:17 PM. Seconded by Councilwoman Juliano and carried unanimously.

### **EXECUTIVE SESSION RESOLUTION**

BE IT RESOLVED that the following portion of this meeting dealing with the following generally described matters shall not be open to the public:

*Administration Personnel; Botti Litigation Update; Ciaglia Litigation Update; P.B.A. Overtime; OPRA Litigation; DPW Personnel; First Aid Personnel*

BE IT FURTHER RESOLVED that it is anticipated that the matters to be considered in private may be disclosed to the public at a later date under the following circumstances:

**When the need for privacy as to each item no longer exists.**

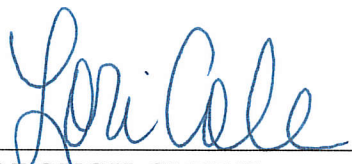
BE IT FURTHER RESOLVED that the private consideration is deemed required and is permitted because of the following noted exceptions set forth in the Open Public Meetings Act (N.J.S.A. 10:4-12):

- \_\_\_\_\_ 1. Rendered confidential by Federal law or that if disclosed would impair receipt of Federal funds.
- \_\_\_\_\_ 2. Rendered confidential by State Statute or Court Rule.
- \_\_\_\_\_ 3. Would constitute an unwarranted invasion of individual privacy.
- \_\_\_\_\_ 4. Deals with collective bargaining or any employment agreement, including negotiations positions.
- \_\_\_\_\_ 5. Deals with purchase, lease or acquisition of real property with public funds.
- \_\_\_\_\_ 6. Related to setting of bank rates or the investment of public funds and disclosure could adversely affect the public interest.
- \_\_\_\_\_ 7. Related to tactics and techniques utilized in protecting the safety and property of the public and disclosure may adversely affect the public.

- \_\_\_\_\_ 8. Related to investigation of violations or possible violations of the law.
- X   9. Related to pending or anticipated litigation or contract negotiations in which the public body is or may be a party.
- X   10. Falls within the attorney-client privilege and confidentiality is required.
- X   11. Deals with personnel matters involving the employment, appointment, termination of employment, terms and conditions of employment, performance evaluation or discipline of any public officers or employees, either current or prospective, and all of the employees or appointees whose rights could be adversely affected have not requested that the matter be discussed publicly.
- \_\_\_\_\_ 12. Quasi-judicial deliberations after public hearing that may result in imposition of a civil penalty or suspension or loss of a license or permit.

Councilman Neyhart moved Council adjourn Executive Session at 7:45 PM, seconded by Councilman Migliaccio, and carried unanimously.

Councilwoman Mango moved Council adjourn Caucus Session at 7:51 PM. Seconded by Councilman Neyhart and carried unanimously.

  
BOROUGH CLERK