

SPECIAL MEETING

CITY COUNCIL

SEPTEMBER 15, 2009

6:30 P.M.

A Special Meeting was held by the City Council of the City of Long Branch on September 15, 2009 at 6:30 p.m.

Present: Michael DeStefano, Council President; Dr. Mary Jane Celli, Council Vice President; David G. Brown, Councilman; Anthony Giordano, Councilman; Brian Unger, via telephone

Others present: Mayor Schneider; Howard Woolley, Business Administrator; James Aaron, City Attorney; Ron Mehlhorn, Finance Director; Irene A. Joline, City Clerk

Pledge of Allegiance was recited and certification was read.

PUBLIC PARTICIPATION

Motion by Councilperson Celli, seconded by Councilperson Brown to open the public comment portion of this meeting.

Bill McLaughlin - 448 Ocean Avenue

Spoke regarding the settlement before Council this evening, attorney fees that have been spent and ethics.

Denise Hoagland - 68 Ocean Terrace

Spoke regarding eminent domain being off the table for their homes. Does not agree to the terms of this settlement. Went on to speak about blight and damages, circumstances of the agreement and elated that this is a win.

Harold Bobrow - 295 Ocean Boulevard

Glad for the finality on this. Hope Beachfront South does not have to go through this. Went on to speak about the resolution and fees paid and the five year tax abatement.

Avery Grant - 405 Atlantic Avenue

Commended MTOTSA for hanging strong in a real serious battle.

Diana Multare - 21 North Bath Avenue

Asked what the City has paid out in eminent domain costs, eminent domain legislation, monies to be paid by the developers, removing the illegally adopted blight designation for Beachfront South and stating that an ordinance should be adopted.

Vincent Lapore - Long Branch

Spoke regarding the agreement that was signed. The battle will continue on. Went on to speak about MTOTSA and the individuals that did not sign.

Michelle Bobrow - 295 Ocean Boulevard

Spoke regarding Constitution Day being September 17th. Went on to speak about the people's day in court, years that have been taken away and health.

Motion by Councilman Brown, seconded by Councilperson Celli to close the public portion of the meeting.

Mr. Aaron - Let me (inaudible) the remarks by saying there is a lot of misconception out there with respect to how this agreement came about, what caused the agreement to come about and what the agreement says. First of all the City was advised after the appellate division ordered a remand so the City would retry the case based on a new standard that did not exist at the time the original study was made. It was a remand, period. The court today reinforced that exact statement. The developers who had a contract with the City advised the City that they no longer wanted to acquire anymore property in the Beachfront North Redevelopment Zone for a myriad of reasons which meant that if the City were to move forward with the litigation it would do so at the City's expense, tax payers expense because all of the fees paid for the City's work were paid up to that point by the developer, in fact the City had a choice, it could move forward with its own money, tax payers money and have no developer. Now, the City decided not to do that. The City also had a choice and that choice was simply abandoned the eminent domain proceeding, pay legal fees and walk away and leave the property owners where they were with undersized lots, non conforming lots and no ability to improve those lots in the future. The City in a good faith effort reached about 9 months ago with all of the defendants said, give us time to work, not only with you as property owners but also with the developer because the developer had approximately 17 homes, maybe 18 that were abandoned and were laying fallow in this area.

The City had to work in conjunction with the property owners to rezone this property so that all of the defendants property instead of being non conforming properties because conforming and all of the property owners were given the right to be their own developers and improve their properties and get the benefit of tax abatements, the same tax abatements that were given to the developer, no greater, no less. The property owners have ten years to improve their homes. They can improve the value of their homes, they can improve the density of their homes, they have new parking, they will get a refinished road in all of the areas, they are going to have improved lighting on the properties, the City is going to work with JCP & L to get that done and the property owners said to the City and to the developer, look, we have a bunch of properties that are abandoned and that are boarded up, help us get these demolished. The City couldn't do that on its own so the City worked with the property owners to get a demolition schedule so that all of the properties owned by the developer will be demolished according to that schedule in the court ordered agreement. With respect to legal fees and professional fees, you all should know that no legal fees have been paid by the City for over a year and a half on this project. The \$195,000 that's coming from the developer will pay the legal fees and professional fees that have been incurred by the City and those will be paid within 30 days of the agreement if it is improved by this Council. In all of Beachfront North, all of the legal fees and professional fees, design fees have been paid by the developers in Beachfront North Phase I and Phase II. Now, with respect to Article 7 and the tax abatements that are given to the developers, those are exactly the same as it were in existence with MTOTSA and as I said in court today, the City thanks the property owners who worked with the City, thanks their Counsel who worked with the City to come to a resolution that allowed the property owners to keep their homes, eliminate eminent domain, give the property owners the opportunity to become developers of their own properties, improve their properties, get assistance from the City to do it and get that entire area improved with new single family and townhouse development which will create a perfect buffer between the development that's taking place to the South and the Seven Presidents Park to the north. Thank you.

RESOLUTIONS:

R272-09 RESOLUTION AUTHORIZING THE MAYOR AND THE CITY OF LONG BRANCH TO ENTER INTO A CONSENT ORDER OF SETTLEMENT AS THE RESULT OF MEDIATION IN THE MATTER OF LONG BRANCH V. ANZALONE AND LONG BRANCH V. MELLILO, ET AL

R273-09 RESOLUTION AUTHORIZING THE MAYOR TO SIGN THE FIFTH AMENDMENT TO THE REDEVELOPMENT AGREEMENT

Resolutions were offered by Councilman Giordano, seconded by Councilman Brown and adopted upon the following roll call votes:

Mr. Brown – Yes, God bless Long Branch.

Mr. Giordano – Good evening, just a couple brief comments. One is, first I would like to thank those who really worked for the last 10 months in this process starting obviously on the city side of Mr. Aaron and the Mayor, the developers attorneys, the developers and of course the property owners and the property owners attorneys and obviously I forgot Judge Cavanagh as well who put a lot of time and effort into mediating the settlement negotiations and you know, I know everyone probably doesn't feel like they got everything they were looking for, everything they wanted and that's always difficult in these types of settlement situations especially where you have three party negotiations, the city, the developers and the property owners but I do feel that in light of all that's happened, where we are, where everybody would like to go that this is at least on the city side a good settlement. I'm hoping for the property owners that it works out the way you hope it works out in the future. Over the last ten months through the negotiations and the few years before that at no time, believe me did we ever think that you weren't sincere about wanting to stay in your home. Look at Mrs. LaRosa, Mrs. Vendetti, Mr. Anzalone and obviously others, at no time did we ever think that you were anything, or wanted anything other than what you have right now and that's just being able to stay in your home so hopefully this accomplishes that at the same time, puts a lot of other issues to rest for everybody and with that, I vote yes.

Mr. Unger – Irene, I want to check if people can hear me in the audience. (Everyone was able to hear) I want to say that as the Institute for Justice remarked today, this is a government created nightmare that was imposed on these homeowners and tax payers and despite what my kind colleague Anthony Giordano says, there is no elimination of the issue. We do not have an eminent domain ordinance in this city and apparently what we see from the administration and from the Councilmen that agree with the administration there is no movement to any serious consideration of that. In the understanding that a majority of my colleagues will vote in favor of these resolutions, in good conscience I can not vote for this agreement despite the fact that most of my friends and supporters in MTOTSA, people I've fought for and representing these past 3 ½ years have signed it. In all fairness this agreement does contain some positive elements for them, for folks that wish to move on with their lives and develop their properties and I respect their decision and I abide with it as we move forward to the next stage in the life of this neighborhood. If my vote was a deciding vote in a 2

to 2 tie, I would vote yes but its not and therefore I am going to vote no. There needs to be at least one symbolic no vote as a reflection and a notation as a check on the errors and arrogance that lead this administration to refuse to settle with MTOTSA six years ago. This was a shameless waste of tax payer money and I vote no on eminent domain abuse. I vote no on the fact that this city has no city wide eminent domain ordinance. I vote no on the phony and illegal blight designation in Beachfront South. I vote no on an 8 or 10 or 12 million dollar tax payer liability for the Fuchsia Triangle law suit and the probably Beachfront South law suit and I vote no on behalf of our city's tax payers who I am sure would like to get these lawyers out of their wallets and see their hard earned tax dollars spent on crime control, code enforcement and on making Long Branch a cleaner better and safer place to live. I just want to make a brief remark. Some years ago corrupt legislative leaders in Trenton blurred the notion of blight and deceptively introduced the terminology "area in need of redevelopment" in order to help their developer friends go after working family neighborhoods. Thankfully the NJ Judiciary has seen through this blatant lie and now we as a city and as a city government have to comply with the law. We have to stop bringing on lawsuit after lawsuit. Long Branch will change, Long Branch will grow, Long Branch will one day have a stronger economy and cleaner safer neighborhoods with good middle class housing stock and stable taxes but we are not going to get there by giving away our neighborhoods, by bringing on lawsuits, by giving revenue to developers, by forcing eminent domain and phony blight designation. The path to a better Long Branch lies through the improvement of natural market conditions. The great draw of our beach front and our infrastructure and the ability to attract young families starting out and making our streets and schools safe and attractive for all of our citizens. We need an eminent domain ordinance that protects our people, that allows people what to do with what they want with their(inaudible) and what they need and want to do within the guidance of our zoning and planning rules and regulations so I vote yes for the brave residents of MTOTSA, they know that I love them and care about them and I would do anything for them and I vote yes on the stellar legal work of their attorneys in defeating this administration but in the end I vote no on this resolution to reflect opposition to the policy errors and arrogance that brought us to this point today.

Dr. Celli – I hope all of you were listening to Mr. Aaron's summarization of the two resolutions and I hope you all heard him say that there was no tax payer money used. I've heard that over and over and over again and it seems as though it's misconstrued. I personally would like to thank Judge Cavanagh for being a mediator for everyone, all of the residents, all of the attorneys, everyone who was involved and finally getting to a resolution. When you have a mediator, not everybody is happy on each side. There are

compromises made and this is what has happened so I wish everyone well, thank God and I will agree with Mr. Brown, God bless Long Branch. Yes.

Mr. DeStefano - I don't know where to begin to address every single concern that was mentioned here today. From Mrs. Bobrow, I do have a copy of the Constitution. I have no clue where you got the idea I ever said I didn't know what was in it and in fact if you read it you will note there is a segment that says that eminent domain can be used provided just compensation as provided. That was our forefathers and all the people that we were told if they marched in here would beat us up. That being said, the next item is, my opinion on a city wide eminent domain resolution or ordinance or whatever, this was a very long process. The redevelopment process has been a very long process, to get here was very public and anybody who has been to any of the hearings or who have been here know that the road that we took included more public hearings that were required by law to designate the areas in need of redevelopment. Those are the only areas where eminent domain could be used. Today it's being removed from the MTOTSA area. When negotiations are complete, I suspect the same will be true for Beachfront South. The rest of the City, if the process were ever to start again would know that their area was being targeted as an area in need of redevelopment, they would know that eminent domain was a tool that could be used in that process and they would be widely alerted to the fact as most everyone was years ago that this may in fact be happening. They are protected simply because those processes and proceedings have not even started and as far as I'm concerned giving the road that we've already taken and the areas that we've designated as area in need of redevelopment, I have no intention of ever designating any other area in the city of Long Branch. If my word isn't good enough, oh well, I can't be worried about that. With that I vote yes.

Ayes 4 - Nays 1 / Unger

Motion was made by Councilman Celli, seconded by Councilman Brown to adjourn this meeting at 7:30 p.m.