

City of Englewood
City Council Workshop
Meeting Minutes

May 10, 2016

A Workshop Meeting of the Mayor and Council of the City of Englewood, Bergen County, New Jersey was held in the Municipal Court in the Public Safety Building commencing at 7:30 P.M.

Present: Council President Wayne Hamer
Council Member Charles Cobb
Council Member Michael Cohen
Council Member Marc Forman
Council Member Eugene Skurnick
City Attorney William Bailey
City Manager Timothy Dacey
City Clerk Yancy Wazirmas

Absent: Mayor Frank Huttler III

Council President Hamer called the meeting to order at 7:33pm and then led the Pledge of Allegiance.

OPEN PUBLIC MEETINGS ACT: The City Clerk read the following statement: *Adequate notice of this meeting, pursuant to the Open Public Meetings Act, was provided on the Annual Schedule of Meetings, which was adopted by the City Council on January 5, 2016, posted on the bulletin board at City Hall, distributed to The Record, and filed in the office of the City Clerk.*

Council President Hamer reminded everyone the Deadline to Register to Vote is May 17th.

APPROVAL OF MINUTES

RESOLUTION #109-05-10-16: RESOLUTION ACCEPTING MINUTES

BE IT RESOLVED, that the following minutes be and are hereby accepted and filed:

COUNCIL MEETINGS

February 23, 2016

March 22, 2016

COUNCIL WORKSHOP MEETINGS

March 8, 2016

Motion by **Councilman Forman** seconded by **Councilman Cobb** to approve the Minutes.

ROLL CALL:

Yes: Council Members Cobb, Cohen, Forman, Skurnick and Hamer

Council Comments on Resolution #109-05-10-16:

- Councilman Skurnick requested that the City Clerk reach out to the Land Use Secretary and request that the Board of Adjustment and Planning Board minutes be written with more detail to indicate who spoke and what was said.

RESOLUTIONS

RESOLUTION #110-05-10-16: APPOINTMENT OF CFO

Motion to TABLE Resolution #110-05-10-16 was made by **Councilman Cobb** and was seconded by **Councilman Forman**.

ROLL CALL:

Yes: Council Members Cobb, Forman and Hamer

No: Council Members Cohen and Skurnick

Council Comments on Resolution #110-05-10-16:

- Councilman Skurnick asked what are the repercussions for not appointing a CFO. Mr. Bailey responded that the issue must be addressed sooner rather than later. Mr. Skurnick read a statement about the position of CFO and the EEDC.
 - Councilman Cobb stated that personnel matters should not be discussed in open session.
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RESOLUTION #111-05-10-16: RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ENGLEWOOD, COUNTY OF BERGEN, NEW JERSEY AUTHORIZING AND APPROVING THE DEFEASANCE OF \$3,000,000 AGGREGATE PRINCIPAL AMOUNT OF THE CITY'S OUTSTANDING GENERAL IMPROVEMENT BONDS, SERIES 2014B; AUTHORIZING AND APPROVING THE EXECUTION OF AN ESCROW DEPOSIT AGREEMENT WITH RESPECT TO THE DEFEASANCE OF SAID BONDS; AND AUTHORIZING OTHER NECESSARY ACTIONS IN CONNECTION THEREWITH

WHEREAS, pursuant to, *inter alia*, the Local Bond Law, constituting Chapter 169 of the Laws of 1960 of the State of New Jersey (*N.J.S.A. 40A:2-1 et seq.*), as amended and supplemented ("Local Bond Law"), the City of Englewood, County of Bergen, New Jersey ("City") has heretofore issued \$16,450,000 aggregate principal amount of its General Improvement Bonds, Series 2014B ("2014 Bonds"), a portion of the proceeds of which were utilized to acquire the Lincoln and Liberty School facilities in the City (collectively, the "School Facilities Project"); and

WHEREAS, the School Facilities Project was acquired for the purpose of providing educational facilities for the City and was completed with due diligence; and

WHEREAS, on or about April 12, 2016, the School Facilities Project was sold to a developer for non-governmental use, the result of which was the receipt by the City of certain funds in the amount of \$7,862,500 ("Available Funds"); and

WHEREAS, the 2014 Bonds in the aggregate principal amount of \$10,010,000, and maturing on April 1 in the years 2024 through 2032, both inclusive (collectively, the "Callable Bonds"), are subject to redemption prior to maturity at the option of the City on or after April 1, 2023 ("Redemption Date") at a redemption price equal to 100% of the Callable Bonds to be redeemed, plus accrued interest thereon; and

WHEREAS, the 2014 Bonds maturing on April 1 in the years 2017 through 2023, both dates inclusive, in the aggregate principal amount of \$5,170,000 also remain outstanding but are not, however, subject to redemption prior to maturity ("Non-Callable Bonds" and together with the Callable Bonds, the "Outstanding Bonds"); and

WHEREAS, the City is now desirous of using a portion of the Available Funds to: (i) provide for (a) the defeasance of the portion of the Non-Callable Bonds allocable to the School Facilities Project in the amount of \$1,025,000 ("Defeased Non-Callable School Facilities Bonds"), and (b) the defeasance and redemption of the portion of the Callable Bonds allocable to the School Facilities Project in the amount of \$1,975,000 ("Defeased Callable School Facilities Bonds"; together with the Defeased Non-Callable School Facilities Bonds, the "Defeased Bonds"), each in the amounts and at the interest rates set forth in Exhibit "A" attached hereto, by the funding of an escrow sufficient to pay, when due, the principal of and interest on the Defeased Bonds; and (ii) pay the costs associated with the defeasance of the Defeased Bonds (collectively, the "Defeasance Project"); and

WHEREAS, in order to effectuate the Defeasance Project, it is necessary for the City to: (i) appoint a bank to serve as escrow agent ("Escrow Agent") and to enter into an Escrow Deposit Agreement ("Escrow Agreement") by and between said Escrow Agent and the City to establish the terms of the Defeasance Project; and (ii) authorize other necessary actions in connection therewith.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ENGLEWOOD, COUNTY OF BERGEN, NEW JERSEY, AS FOLLOWS:

Section 1. The City hereby authorizes and approves the Defeasance Project, as further described in the preamble of this Resolution and as hereinafter set forth.

Section 2. The Escrow Agreement, substantially in the form attached hereto as Exhibit "B" and made a part hereof, with such changes as may be recommended by Bond Counsel (as hereinafter defined) and the City Solicitor, is hereby authorized and approved.

Section 3. The Mayor and the City Manager are each hereby severally authorized to execute the Escrow Agreement on behalf of the City. The Clerk and Deputy Clerk of the City are each hereby severally authorized to attest said signature and to affix the City's seal upon the same. The execution of the Escrow Agreement by an authorized officer of the City as determined hereunder shall conclusively evidence

the City's approval of the terms thereof and no further ratification or other action by the members of the City Council shall be required with respect thereto.

Section 4. The appointment of The Bank of New York Mellon as Escrow Agent for the purposes of the Defeasance Project is hereby authorized, approved, ratified and confirmed. The City Manager is hereby authorized and directed to enter into one or more agreements with the Escrow Agent for the services to be provided.

Section 5. The Escrow Agent is hereby authorized and directed to: (i) make the required payments of principal and interest on the Defeased Non-Callable School Facilities Bonds on their respective principal and interest payment dates out of the amounts on deposit in an Escrow Account ("Escrow Account"), all at the times and in the amounts established pursuant to the Escrow Agreement; (ii) make the required interest payments on the Defeased Callable School Facilities Bonds up to the Redemption Date on their respective interest payment dates out of the amounts on deposit in the Escrow Account, all at the times and in the amounts established pursuant to the Escrow Agreement; (iii) to redeem the Defeased Callable School Facilities Bonds on a call date to be specified in the Escrow Agreement, at a redemption price equal to 100% of the Defeased Callable School Facilities Bonds to be redeemed, plus interest accrued to the redemption date; and (iv) to pay the costs associated with the Defeasance Project. The Escrow Agent shall mail any required notice of redemption as set forth in the Defeased Callable School Facilities Bonds and in the Escrow Agreement.

Section 6. The Mayor and City Manager are each hereby severally authorized to execute one or more subscriptions and/or agreements for the purchase and/or issuance of investment obligations with respect to the defeasance and redemption, as applicable, of the Defeased Bonds.

Section 7. The Mayor and City Manager are each hereby severally authorized to prepare and send notice of the defeasance and redemption, as applicable, of the Defeased Bonds to the Commissioner of the Internal Revenue Service.

Section 8. The City hereby appoints Causey Demgen & Moore P.C., Denver Colorado, certified public accountants ("Verification Agent"), to verify the mathematical accuracy of certain computations made with respect to the defeasance and redemption, as applicable, of the Defeased Bonds. The Mayor and Manager of the City are each hereby severally authorized to execute on behalf of the City an agreement with the Verification Agent for the services to be provided.

Section 9. All actions heretofore taken and documents prepared or executed by or on behalf of the City by the Mayor, City Manager, City Clerk or Deputy City Clerk, other City officials or by the City's professional advisors in connection with the execution and delivery of the Escrow Agreement and the defeasance and redemption, as applicable, of the Defeased Bonds, and all matters related thereto, are hereby authorized, approved, ratified and confirmed.

Section 10. The Mayor, City Manager, City Clerk or Deputy City Clerk are each hereby severally authorized to determine all matters and execute all documents and instruments in connection with the execution and delivery of the Escrow Agreement and the defeasance and redemption, as applicable, of the Defeased Bonds not determined or otherwise directed to be executed by applicable law or by this Resolution, and the signatures of the Mayor, City Manager, City Clerk or Deputy City Clerk on such documents or instruments shall be conclusive as to such determinations.

Section 11. All resolutions, or parts thereof, inconsistent herewith are hereby rescinded and repealed to the extent of any such inconsistency.

Section 12. This Resolution shall take effect immediately upon adoption this 10th day of May, 2016.

* * * * *

Ms. Jen Edwards from Acacia provided an explanation as to why this Resolution is needed and the process involved. Ms. Edwards also responded to questions from the Council.

A motion to approve Resolution #111 was made by **Councilman Forman** and seconded by **Councilman Cobb**.

ROLL CALL:

Yes: Council Members Cobb, Cohen, Forman, Skurnick and Hamer

RESOLUTION #112-05-10-16: REFUNDS DUE TO STATE TAX APPEALS

WHEREAS, a judgment has been received from the Tax Court of New Jersey for the following Block and Lots in the City of Englewood; and

WHEREAS, the said judgments have created and overpayment on the tax account listed for said years;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Englewood, in the County of Bergen, State of New Jersey, that the Chief Financial Officer be and he is hereby authorized to refund overpayment of the property taxes in the amount of \$88,796.08 for said years due to successful tax court judgments.

OWNER	Block & Lot	Address	Amount
Raphael & Linda Benaroya	1808-24	179 Lincoln Street	\$15,018.26 – 2011 \$14,793.08 – 2012 \$18,599.79 – 2013 \$18,877.63 – 2014 \$21,570.32 – 2015

A motion to approve Resolution #097 was made by Councilman Forman and seconded by Council President Hamer.

ROLL CALL:

Yes: Council Members Cobb, Cohen, Forman, and Hamer

Abstain: Council Member Skurnick

RESOLUTIONS FOR DISCUSSION

- Contract for Pool Management Services for Tryon Pool
- Appointment of Alternate Commissioner to the Garden State Municipal Joint Insurance Fund Board
- Resolution honoring Ms. Beverly Mitchell

The items listed above were discussed by the Council Members and the Resolutions will be placed on the Regular Council Meeting Agenda for approval. At the Council's request, Ms. Wendy Wiebalk, the new Director of Human Resources will be present at the Regular Meeting to meet the Council and the public.

ORDINANCES FOR DISCUSSION

- Police Department Discovery and Records Fees
- Amending Ordinance 14-13

Prior to discussions, Council President Hamer reminded everyone that there are three ordinances scheduled for Public Hearing and Second readings at the May 24th Council Meeting:

- Ordinance 16-07: Bond Ordinance
- Ordinance 16-08: Towing Ordinance
- Ordinance 16-09: Parking Ordinance for Prospect Street and Glenbrook Parkway for Street Sweeping

Mr. Bailey explained that the purpose of amending the Police Department Discovery and Records fees is because there is a court rule that dictates what you can charge and our current ordinance is not in line with current State guidelines. This will bring our fees in-line with State required guidelines for those fees.

Mr. Dacey explained to the Council that the ordinance amending Ord. No. 14-13 is being pulled.

ITEMS FOR DISCUSSION:

- Forming a Committee for a Community Center
Council President Hamer requested that the Council Members come back with recommendations for formulating a committee for the next Workshop Meeting in June. The recommendations would be for directions to be given to the committee and for possible committee members.
- Park and Municipal Space Beautification/Status of Fields and Courts/Capital Projects for 2016
City Engineer Frantz Volcy provided updates, with Council discussion, on the following:
 - There are three road projects that are currently advertised and are scheduled to be awarded at the May 24th Council Meeting (East Palisade Ave, Epps Ave and the 2016 Roads Project)
 - Mackay Park Soccer Field project and the Overpeck Dredging (Miller's Pond) project are anticipated to be awarded at the June 14th Meeting.
 - The following are anticipated to be awarded at the June 28th meeting: Mackay Gatehouse, Liberty Road Curb Installation, Culvert Improvements, Artus Park Improvement, and the Glenbrook Parkway Play Area.
 - The following are anticipated to be awarded at the July 19th meeting: Englewood Avenue Traffic Signals and Tenafly and Durie Traffic Signals; several projects at the Library; Jones Road Channel Repair.
 - The following are anticipated to be awarded at the August 23rd meeting: Forest and Lafayette Channel Repair. This is just looking for proposals to see what the total cost of the project will be. The bulk of the landscaping for the City will be around this time. The recommendation is to plant the trees in the fall season.
 - There are 2 remaining issues on West Palisade Avenue: the traffic signals at Van Brunt still have the plastic on them due to an issue with CSX and the plantings that need to be done where the pavers are located. The pavers will have to be removed and turned into a planting bed.
 - They are in the process of speaking with United Water regarding providing water for the sprinkler system at Eleanor Harvey Park. There are a few items that need to be done including a pergola and concrete pads for the benches.
 - They are reviewing all the courts and looking to see the repairs that are required.

PUBLIC SESSION:

Council President Hamer opened the meeting to the public and instructed that any member of the public wishing to speak to step up to the microphone and give their name and address, and have four minutes to speak.

- Diane Brown, 236 Prospect Street:
 - Asked about the status of the ordinance for street cleaning on Prospect Street.
- Geoffrey Bousbib, 296 Thornton Rd:
 - Asked if the reason that the CFO resolution was tabled was because of performance issues. Mr. Hamer responded that they cannot discuss an individual's personnel matter without providing them a Rice Notice.
- Carla Shears-Jones, Rock Creek Terrace:
 - Asked how many Council Members there are and which Wards they represent.
 - Asked Councilman Cohen about his campaign platform. Mr. Cohen responded that his record speaks for itself and that a Council Meeting is not the proper forum for campaigning and is intended for government business.
- Michael Kaufmann:
 - Stated that he waives his rights under the Rice notice.
 - Asked why the Resolution appointing him CFO was tabled.
- Lucy Walker, Washington Place:
 - Asked/commented about the following: why were signs removed from Mackay Park (new ones are being put in); thanked them for finding the cornerstone of the

Lincoln School; asked if anyone knows where the other cornerstone is located; are any of the bridges in the park being replaced (Mr. Volcy responded that they are getting cost estimates and different options); complained about the commercial vehicle parked on the street blocking her view as she leaves her driveway.

- Crystal Brown, 328 Howell Rd:
 - Asked if the Tryon Avenue Pool was being used for Summer Camp Activities or if it's being opened for the summer. Mr. Hamer responded that it will be opened this summer and major repairs will be conducted after the season.
 - Asked if there is a time-frame in place that they can anticipate having one or possibly all of the bridges in the park re-opened. (No time-frame set.)
 - Asked about the grant for the Glenbrook Parkway Park from two years ago. Mr. Dacey responded that the City applied for the grant but that the County lowered the funds.
 - Asked if the streetlights on Howell Road can be dimmed or turned off at night. Mr. Volcy responded that this is an on-going issue with PSE&G for the past two years. The issue is that if you want dimmers or to shut them off then they need to be placed on a separate system run through a meter where the City would have control of the lights. They will cost this out to see what impact it may have.
- Lisa Wisotsky, 237 Hutchinson Rd:
 - Stated that the tabling of the CFO appointment is unconscionable.
- Adam Brown, 186:
 - Explained the authority and the sources of income of the EEDC
 - Provided statistics for vacancies in the stores in the Special Improvement District.
- Jack Silberman, 320 Murray Ave:
 - Spoke about the draft tree ordinance presented by Kevin Lake to the Council and the EEC and recommended that the City adopt it.
 - Reported that the half of the storm drains in the Manor Avenue area have standing water and expressed concerns about mosquitoes.
 - Spoke about the cost of lighting in the park.

Council President Hamer closed the Public Session.

CLOSED SESSION:

RESOLUTION #113-05-10-16: PERMIT THE COUNCIL OF THE CITY OF ENGLEWOOD TO ENTER INTO CLOSED SESSION

BE IT RESOLVED by the Council of the City of Englewood, pursuant to the provisions of the Open Public Meetings Act, that the Council meet in closed session to discuss the following subject matter:

Litigation and Contract Negotiations and Attorney/Client Privilege

Which subject matter is permitted to be discussed in closed session pursuant to the following designated sub-section(s) of Section 7 of the Open Public Meetings Act:

- () Sub-section 1 dealing with material rendered confidential by express provision of Federal or State law.
- () Sub-section 2 covering a matter in which release of information would impair a right to receive federal funds.
- () Sub-section 3 involving disclosure of material which would constitute an unwarranted invasion of privacy, including material related to an individual's personal and family circumstances, without the express written consent of the individual involved.
- () Sub-section 4 pertaining to collective bargaining agreements and the terms, conditions, and negotiations thereof.

- () Sub-section 5 dealing with the acquisition of real property, the settling of bank rates, or the investment of public funds where discussion thereof would adversely affect the public interest.
- () Sub-section 6 dealing with tactics and techniques used in protecting the safety and property of the public where disclosure could impair such protection or investigation of violation of the law.
- (X) Sub-section 7 dealing with pending or anticipated litigation, contract negotiations, or matters falling within the attorney-client privilege.
- () Sub-section 8 dealing concerning personnel matters dealing with employment, appointment, termination, or terms and conditions of employment of any person or persons, or the evaluation, promotion or disciplining of employees unless all employees involved consent to disclosure thereof.
- () Sub-section 9 involving deliberations after public hearing on a matter which may result in the imposition of a civil penalty or the suspension or loss of a license.

AND BE IT FURTHER RESOLVED that, as precisely as can be determined at this time, the discussion conducted in the said closed session can be disclosed to the public upon taking final action thereon, provided disclosure shall not violate the attorney-client privilege or constitute an undue invasion of privacy; and

BE IT FURTHER RESOLVED that, although it is not envisioned that the Council will return to open session after this meeting, the Council reserves the right to do so upon conclusion of the closed session.

Motion by **Councilman Forman** seconded by **Councilman Cobb** to approve.

ROLL CALL:

Yes: Council Members Cobb, Cohen, Forman, Skurnick and Hamer

Motion by **Councilman Cobb** seconded by **Council President Hamer** to re-convene in open session.

ROLL CALL:

Yes: Council Members Cobb, Cohen, Forman, Skurnick and Hamer

ADJOURN:

Motion by **Councilman Forman** seconded by **Councilman Cohen** to adjourn at 9:44pm.

ROLL CALL:

Yes: Council Members Cobb, Cohen, Forman, Skurnick and Hamer

Yancy Wazirmas, RMC
City Clerk