

**MINUTES OF THE REGULAR MEETING OF THE  
LITTLE SILVER BOROUGH COUNCIL  
March 1, 2010**

The meeting was called to order and the Statement of Compliance with the Open Public Meetings Act given by Mayor Castleman at 8:00 p.m.

"Adequate notice of this meeting has been provided by the mailing of a notice to the Asbury Park Press and The Two River Times, by filing same with the Clerk of the Borough of Little Silver and by prominently posting said notice on the bulletin board of the Borough Hall, all since January 4, 2010."

The salute to the flag was led by Mr. O'Hern and followed by a moment of silence.

Roll Call:

Present: Mayor Castleman, Mr. Bitman, Mr. Levine, Mr. Neff, Mr. O'Hern,  
Mr. VanWinkle, Attorney Bennett and Mr. Biehl, Administrator/Clerk

Absent: Mr. Gilmour

**PUBLIC HEARING**

AN ORDINANCE FOR SALARIES OF CERTAIN OFFICERS AND EMPLOYEES OF THE BOROUGH OF LITTLE SILVER, FOR THE YEAR 2010

Mr. Biehl certified that same had been published in the Two River Times on February 12, 2010, posted on the bulletin board, with copies available to the public.

Motion hearing be opened: Mr. Bitman  
Second: Mr. VanWinkle

Roll Call: Voice Vote - Ayes - Unanimous

Mayor Castleman declared the hearing open and called for comments. Seeing none, she called for a Motion to close the hearing.

Motion hearing be closed: Mr. Neff  
Second: Mr. Levine

Roll Call: Voice Vote - Ayes - Unanimous

Mayor Castleman declared the hearing closed and called for a second reading.

Mr. Biehl introduced for second reading by title only:

AN ORDINANCE FOR SALARIES OF CERTAIN OFFICERS AND EMPLOYEES OF THE BOROUGH OF LITTLE SILVER, FOR THE YEAR 2010

Motion: Mr. Neff  
Second: Mr. O'Hern

Roll Call:

Affirmative: Mr. Bitman, Mr. Levine, Mr. Neff, Mr. O'Hern, Mr. VanWinkle  
Negative: None  
Abstentions: None

Consideration of Minutes for Regular Meetings and/or Special Meetings: None

Consideration of Executive Session Minutes: None

Communications: None

Student remarks and brief remarks on the Agenda from other members of the Public: None

Mr. VanWinkle read the following:

**RESOLUTION**

**WHEREAS**, the Resolution presented and approved on January 4, 2010 for adoption of the Temporary Budget for 2010 contained an error; and

**WHEREAS**, said Resolution is required to be amended

**WHEREAS**, the total amount of the appropriations made hereunder do not exceed twenty-six and twenty-five hundredths percent (26.25%) of the budget for the year 2009, exclusive of the amount appropriated for capital improvements, interest and debt redemption charges;

**NOW THEREFORE BE IT RESOLVED** by the Mayor and Council of the Borough of Little Silver that the 2010 Temporary Budget be and is hereby amended to correct the following appropriations:

		<u>Original</u>	<u>Amended</u>
Social Security	01-36-472-020	28,000	45,000
Recreation Services & Programs O/E	01-28-370-028	26,000	16,000
Buildings & Grounds	01-26-310-024	35,000	28,000



Manual Checks:	\$	0.00
Wire Transfers:	\$	0.00
Total	\$	72,958.21

I hereby certify that there are sufficient funds available to pay the above listed vouchers as submitted. Laura M. Geraghty, C.M.F.O., Deputy Finance Officer.

Motion: Mr. VanWinkle  
Second: Mr. O'Hern

Council and Public Discussion: Mr. Levine questioned if Ryser's Landscaping was over budget for snow plowing at the Railroad Station. Mr. Biehl explained that expense is from the Railroad Expense, and is a contracted service.

Roll Call:

Affirmative: Mr. Bitman, Mr. Levine, Mr. Neff, Mr. O'Hern, Mr. VanWinkle  
Negative: None  
Abstentions: None

#### **REPORTS OF COUNCIL MEMBERS:**

**FIRE, FIRST AID AND NEWSLETTER** (Board of Health, Public Affairs, Library Trustees): Mr. Levine, no report.

**POLICE AND EMERGENCY PREPAREDNESS** (Traffic Safety Committee, Drug Alliance, Local Emergency Planning Council): Mr. Gilmour, absent, no report.

**BUILDINGS, GROUNDS, EQUIPMENT, STREET LIGHTS** (Recreation, Property Maintenance, Downtown Development Committee): Mr. O'Hern, no report.

**PERSONNEL** (Environmental Commission, Shade Tree Commission, Open Space): Mr. Neff, no report.

**PUBLIC WORKS** (Planning Board, Americans With Disabilities Act Committee, Parker Homestead Liaison, Recycling, Little Silver Cross Acceptance Liaison): Mr. Bitman reported the Regular Meeting of the Planning Board is scheduled for tomorrow evening, and copies of the Agenda are available.

**FINANCE AND BUDGET AND INSURANCE** (Business and Professional Association, Finance Advisory, Waterfront Committee): Mr. VanWinkle, no report.

Council and Public Discussion: None

Mayor's Report: Mayor Castleman reported that she will contact State legislators regarding financial assistance with the NJ Transit Railroad Station parking lot.

Other Reports: None

Old Business: None

New Business:

**CONSENT AGENDA:** Mayor Castleman announced that the following Resolutions had been discussed and would now be approved by Consent Agenda.

Motion: Mr. VanWinkle

Second: Mr. Neff

Roll Call:

Affirmative: Mr. Bitman, Mr. Levine, Mr. Neff, Mr. O'Hern, Mr. VanWinkle

Negative: None

Abstentions: None

## **RESOLUTION**

WHEREAS, the 2010 Salary Ordinance adopted on March 1, 2010 fixed the salaries and compensations for certain titles and positions of the officers and employees of the Borough of Little Silver:

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Little Silver that the following named officers and employees shall be compensated for 2010 at the rates designated as follows:

Linda Goff	Web Site Editor	\$3,000.00
(Effective Date January 25, 2010)		

BE IT FURTHER RESOLVED that a certified copy of this Resolution be transmitted to the Borough Deputy Chief Financial Officer to make the necessary payroll adjustments.

## **RESOLUTION**

WHEREAS, The Governing Body of the Borough of Little Silver deems it to be in the best interest of the residents of Little Silver to provide certain public health services; and

WHEREAS, the Visiting Nurse Association of Central Jersey (VNACJ) is a non-profit corporation capable of providing such services;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Little Silver that the Mayor of the Borough of Little Silver and the Health Officer be and are hereby authorized to enter into an agreement with the Visiting Nurse Association of Central Jersey (VNACJ) for the provision of public health and nursing services as delineated in the attached agreement for the annual sum of \$4,067.00 for the period of January 1, 2010 through December 31, 2010.

### **RESOLUTION**

WHEREAS, application has been made to the Borough of Little Silver by the Red Bank Regional Buccaneer Booster Club to hold an Off Premise 50/50 Raffle on May 21, 2010; and

WHEREAS, all requirements have been complied with for the holding of such Raffle;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Little Silver that the application for an Off Premise 50/50 Raffle by the Red Bank Regional Buccaneer Booster Club be and is hereby approved.

### **RESOLUTION**

WHEREAS, the Borough of Little Silver did heretofore award a quote on December 7, 2009 to B&B Construction L.L.C., Howell, NJ for Drainage Improvements at Howard's Beach in an amount not to exceed \$36,485.00 based on the Borough Engineer's estimated quantities and materials; and

WHEREAS, the Mayor and Council of the Borough of Little Silver wish to amend said Resolution in accordance with the attached Changer Order #1; and

WHEREAS, this Change Order falls within the legal limit established pursuant to N.J.A.C. 5:31-4.2; and

WHEREAS, adequate funding for this purchase is contained in Ordinance #677-09;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Little Silver that the agreement with B&B Construction, L.L.C. is hereby amended to \$40,785.00 from \$36,485.00, an increase of \$4,300.00 in accordance with Change Order #1.

Mr. Bennett read the following:

### **RESOLUTION AUTHORIZING THE BOROUGH TO ENTER INTO A SETTLEMENT AGREEMENT WITH INSOMNIA COFFEEHOUSE AND SUSAN SORENSON**

WHEREAS Little Silver is a New Jersey municipality and entered into a lease agreement with Insomnia Coffee House and Susan Sorenson (herein collectively referred to as "Insomnia") for the operation of a concession stand at the Little Silver Train Station on May 7, 2007.

WHEREAS pursuant to the terms of the lease, the defendant was to pay the Borough the basic rent of \$1,725 per month.

WHEREAS Little Silver received only a partial payment for January 2009 (\$1,000), and has not received any payments from the Lessee for the months of February 2009 through November 2009.

WHEREAS Little Silver re-bid the lease of the subject premises, and awarded said bid to The Morning Grind Café LLC on September 21, 2009, for \$1,300 a month, or \$15,600 annually. This contract commencing in November 2009;

WHEREAS arrearages in rent and late charges in the amount of \$16,250, plus interest for the partial payment owed for January, and full payment for the months of February 2009 through October 31, 2009;

NOW THEREFORE, the parties hereto voluntarily resolve all disputed matters and enter into the following Settlement Agreement, which fully resolves and disposes of all issues in controversy between them:

1. Insomnia will surrender any claim to the \$3,450 security deposit.
2. Insomnia will also provide \$3,000 of back rent in addition to foregoing their security deposit.
3. Insomnia will, upon the date of commencement of this agreement, provide \$1,000 in the form of a certified check to Little Silver. The remaining \$2,000 balance will be paid by Insomnia in monthly installments of a minimum \$250 per month due every 15<sup>th</sup> of the month beginning on April 15<sup>th</sup>.
4. Upon commencement of this agreement and receipt of the \$1,000 payment, the Borough will move to withdraw their complaint without prejudice within 10 days of the commencement date.
5. Upon full payment of the settlement amount (\$6,450 including security deposit) the Borough will release Insomnia from any and all claims, demands, rights, and causes of action in connection with the subject litigation.
6. The release set forth above, however, shall not operate to discharge Insomnia of their obligations under this Agreement.
7. The laws of the State of New Jersey, without regard to its choice of law provisions, shall govern this Agreement.
8. Neither this Agreement nor any act done or admitted in furtherance thereof, shall be construed as an admission by any party of any fact or claim, nor shall they be admissible into evidence in any action or proceeding to construe or establish any fact or claim, except in an action to enforce the provisions of this Agreement. This Agreement is made as a compromise to avoid expense and to terminate all controversies and/or claims for injuries or damages of any nature, known or unknown, including future developments thereof, in any way growing out of or in connection with the matters described above.

9. The Parties expressly waive and assume the risk of any and all claims for damages for the matters stated in this Agreement that may arise in the future, but which they do not know of or suspect to exist, whether through ignorance, oversight, error, fraud, negligence, or otherwise, and which, if known, would materially affect their decision to enter into this Agreement.
10. If, for any reason whatsoever, any part of this Agreement shall be declared void and invalid, by operation of law or otherwise, in any jurisdiction, then as to such jurisdiction only such parts shall be void and the remaining provisions of this Agreement shall remain in all other respects valid and enforceable and shall not invalidate or render unenforceable such provision in any other jurisdiction.
11. The Parties represent that they have full authority to enter into this Agreement and that they have not assigned or conveyed any of the claims released herein.
12. This Agreement contains the entire agreement and understanding between the Parties and there are no other terms, obligations or covenants of any kind whatsoever except as set forth in this Agreement.
13. This Agreement shall be binding upon and inure to the benefit of the Parties, their past, present and future employees, officers, directors, principals, parents, subsidiaries, related entities, affiliates, agents, representatives, attorneys, predecessors, insurers, re-insurers, successors and assigns.
14. This Agreement may not be altered, amended or modified unless the same shall be in writing and duly executed by the Parties.
15. Any action brought to enforce this Agreement must be initiated in the Superior Court of New Jersey, Monmouth County.
16. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which, together, shall constitute one and the same instrument, and facsimiles and facsimile signatures shall be deemed original signatures. Notwithstanding the above, any party may require that any or all of the Parties' original signatures be promptly supplied.
17. It is understood and agreed that if Insomnia fails to make the required payments for any period of time exceeding thirty (30) days under the terms and conditions of their settlement agreement, the total amount of \$6,450, less any amount paid to date, shall be reduced to a judgment.

WHEREAS, it is in the best interest of the Borough of Little Silver to enter into the proposed settlement Agreement with the Insomnia;

NOW, THEREFORE, BE IT RESOLVED by the Governing Body of the Borough of Little Silver that Mayor and Municipal Clerk/Administrator are hereby authorized to execute the attached Settlement Agreement with Insomnia Coffee House.

BE IT FURTHER RESOLVED that a certified copy of this resolution be forwarded to the following: Borough Clerk, Borough Attorney and Susan Sorenson.

Motion: Mr. Bitman

Second: Mr. O'Hern

Roll Call:

Affirmative: Mr. Bitman, Mr. Levine, Mr. Neff, Mr. O'Hern, Mr. VanWinkle

Negative: None

Abstentions: None

Public Portion: Remarks of the public for the good of the Borough: None

Motion to Adjourn: Mr. VanWinkle

Second: Mr. Neff

Roll Call: Voice Vote - Ayes – Unanimous

The meeting was adjourned at 8:10 p.m.

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Michael D. Biehl  
Administrator/Clerk