

**BOROUGH OF RARITAN
SPECIAL MEETING**

The Special Meeting of the Borough of Raritan Council was held on October 25, 2012 in the Municipal Building, 22 First Street, Raritan, New Jersey 08869 at 6:30 pm.

STATEMENT OF PUBLIC NOTICE

Mayor Jo-Ann Liptak presided and stated: This Special Meeting was called pursuant to the provisions of the Open Public Meetings Law. Notices of this meeting were sent to The Courier News and the Star Ledger on October 16, 2012. In addition, copies of notices were posted on the bulletin board in the Municipal Building, on the Raritan Borough website and filed in the office of the Borough Clerk on aforementioned date. Notices on the bulletin board have remained continuously posted. Proper notice having been given, the Borough Clerk is directed to include this statement in the minutes of this meeting.

ROLL CALL

Present: Denise Carra, Stefanie Gara, Paul Giraldi, Greg Lobell, Anthony Soriano and Donald Tozzi

Absent: None

Also Present: Mayor Jo-Ann Liptak, Daniel Jaxel, Borough Administrator; Mark Anderson, Borough Attorney; Karen E. Kneafsey, Borough Financial Officer; Warren M. Korecky, Borough Accountant and Rayna E. Harris, Borough Clerk

FLAG SALUTE

Mayor Liptak led the flag salute

REVIEW AND DISCUSSION

Mayor Liptak read the following Memorandum:

MEMORANDUM 10/25/12

Why are we here this evening?

This is a meeting of the Borough Council as a Municipal Investigation Committee.

What is the Borough Council investigating?

The short version is that a change in State law, effective near the end of 2010, required the Raritan Library Board to transfer what the law calls “excess funds” to the

Borough for property tax relief. Simply put, the Borough Council is concerned that the Library Board has not transferred all of the funds that it should have, and that Borough taxpayers may have been shortchanged on the property tax relief they deserve.

Why was it necessary to form an Investigation Committee?

The Borough Council is disappointed that it became necessary to form an Investigation Committee. Answering the Borough Council's questions should have been a cooperative process between the Library Board and the Borough Council for the benefit of the Borough taxpayers.

However, after more than a year of seeking the Library Board's cooperation, without success, the Borough Council felt that it had no alternative but to exercise the power given to it by the State to require the Library Board to answer its questions. Even though the Borough Council has exercised its lawful power, the Borough Council still seeks and would prefer a cooperative relationship with the Library Board.

The Library Board, however, has responded to the Borough Council's investigation with a lawsuit against the Borough in which the Board asks the court to prevent the Borough Council from exercising its lawful power.

The Borough Council believes that the lawsuit is an entirely unnecessary waste of taxpayer money, but the Borough Council has no alternative but to respond when sued. The Borough Council is confident that the court will reject the Library Board's claims and permit the Borough Council to proceed with its investigation.

What are these "excess funds" and how did they accumulate?

The answer requires us to go back into history more than a century.

In 1905, the State passed “An Act Concerning Free Public Libraries.” That Act permitted municipalities to establish their own free public libraries by referendum. Apparently concerned those libraries, once established, might not receive sufficient funding, that Act also required a municipality with a free public library “to appropriate and raise by taxation a sum equal to one-third of a mill on every dollar of assessable property within such municipality.”

That Act has been amended a number of times since 1905, but the basic structure, including the one-third of a mill assessment, remains in place today.

In [date], Raritan established a free public library under the 1905 Act. Since then, the Borough Council has appropriated funds for the library, not less than the one-third of a mill formula. This year, the formula required the Borough to raise by taxation and pay to the Library Board \$[2011 appropriation].

The one-third of a mill formula is inflexible, requiring every municipality with a free public library to tax based on the same formula. The needs of the various libraries, however, can be very different. For example, some libraries own and pay for all of the expenses on their library buildings. In Raritan, the Borough owns and pays for the majority of expenses on the library building. The Borough provides for all major building expenses, as well as grounds maintenance like mowing and snow plowing. The Borough also provides such services as payroll services without charge.

For many years, the State has been aware that the one-third of a mill formula provided some libraries with more funding than they really needed. After many years of debate, the State amended the 1905 law to require that libraries return “excess funds” to the Borough for property tax relief.

How much money does the Library Board have in its accounts?

According to the Library Board's own audit, it has \$[amount] in various accounts. Some of this should legitimately be retained by the Library Board for library operations. The law requiring the return of "excess funds" says that the Library Board will keep all of the gifts that may have been made to it, plus an amount 20% more than it spent on library operations last year, plus funds restricted for capital projects and grants. Only the money left over after those deductions is called "excess funds" by the law.

How much should the Borough be getting from the Library Board for tax relief?

The Borough Council does not know. That is the purpose of its investigation, the reason that the Borough Council is here tonight, and the reason that the Borough Council asked the Library Board to be here tonight.

Why can't someone just take the library audit and figure out what the law requires the Library Board to return to the Borough for property tax relief?

This brings us to the heart of the matter. The Library Board has done its own calculation, coming up with an amount of \$[amount] from the \$[amount] that the Library Board has in its accounts. The Borough Council thinks that the proper amount may be much larger, and a larger amount would mean greater tax relief for Borough taxpayers.

The critical issue is the phrase "funds restricted for capital projects and grants" that I mentioned before. According to its yearly audits, the Library Board set aside the following for capital projects:

[chart indicating recent history of capital reserves, including the dramatic increase]

As you can see, there was a dramatic increase in 2011, the first year when the “excess funds” law applied. The Borough Council has not heard a good explanation for that dramatic increase.

This is taxpayer money we are talking about, and the Borough Council wants to be sure that the Borough taxpayers are getting all of the tax relief that they deserve.

Where do we go from here?

Since the members of the Library Board have refused to come tonight, obviously we are not going to get any answers from them. They could have come, in a spirit of cooperation with the Borough Council, but they responded instead with a lawsuit.

At some point, and the Borough Council hopes that it will be soon, the court will decide whether the Borough Council is entitled to the answers that it seeks. The Borough Council is confident that the court will rule in its favor and, if so, the Library Board will be required to come and provide answers at the next meeting like this one. Those answers may show that the Borough’s taxpayers are entitled to additional tax relief.

Any future investigation meetings will be advertised and open to the public.

Karen Kneafsey explained the following Library Finances:

CAPITAL FUND BUDGET

2006 Audit-	\$0.00 (spent \$4,500.00) (\$296,002.5 Santora Fund)
2007 Audit-	\$0.00 (spent \$14,800.00)
2008 Audit-	\$0.00 (spent \$9,300.00)
2009 Audit-	\$0.00 (spent \$ 0.00)
2010 Audit-	\$40,000.00 (spent 0.00)
2011 Audit-	\$451,115.00 (rolled \$40,000.00 total was \$491,115.00)

BUILDING REPAIR

2006 Audit- \$2,000.00 (spent \$9,262.98)
2007 Audit- \$10,000.00 (spent \$17,672.75)
2008 Audit- \$20,000.00 (spent \$12,150.63)
2009 Audit- \$33,600.00 (spent \$5,397.66)
2010 Audit- \$30,000.00 (spent \$9,271.11)
2011 Audit- \$22,000.00 (spent \$0.00)

GRANTS

2005-Somerset County Received \$69,000.00
2007/2008- Somerset County Recieved \$73,750.00
2008- Somerset County Received \$136,800.00
2008/2009- State of New Jersey \$264,075.00
(BALANCE AS OF 10/24/12 \$166,803.47)

TOTAL GRANTS \$543,625.00 from 2005 to date)

Council Member Carra expressed concern for Libraries written long term plan for 2010, 2011, 2012. She added also a resolution of content and written communication from the Library to the State Librarian relative to the transfer as well as the \$491, 00.

Mayor Liptak read from the September 22, 2011 Library Strategic Plan explaining the various sections included in the plan.

Council Member Carra added my children go to the Bridgewater Library because the Library in the Borough closes early and is not opened on the weekends while school is in session.

Council Member Tozzi responded when Library was asked about weekend hours they responded no one comes in on the weekends.

Mayor Liptak added it costs a family in Somerville \$125.00 per year to use their Library and they are with the County. She added that is the exact amount assessed on my tax bill for the Library.

Council Member Lobell commented the formula for the County is higher.

Council Member Carra commented the Library not responding to Mayor and Council is just disrespectful.

Council Member Soriano remarked nearly half a million dollars has been allocated to capital budget and the Library can't tell us where even 2% of this money is going. He added the money should be returned to the tax payers.

Council Member Lobel commented he does not support another addition on the Library building. He added realistically a teen room would just not be utilized. He suggested the

Library Board is avoiding the issues because of a loss of control. He expressed his disappointment and frustration in this situation.

Council Member Tozzi commented there is no room for an addition and there are already parking issues. He added as Library Liaison I was asked to leave the last meeting while they spoke about their budget. He offered a resident of the Borough was also at this meeting, but was not asked to leave. He advised this just makes everything look so shady and we just want to know where the money is going.

Council Member Giraldi remarked all we want is a legitimate plan of where the money is going. He added he does not believe there is a project that would require that much money to be in capital fund.

Council President Gara expressed her concerns about the information that was provided to the State by the Library because it just does not coincide with any of their budget. She added being upset at the lack of response from the Library Board in the last year.

Mayor Liptak advised Mayor and Superintendent of Schools are by law voting members of the Board of Trustees and neither one of us are on the Board. She added the Library Board chose at their discretion to go with another Accountant firm this year instead of using the Borough Accountant which also raises a red flag.

PUBLIC COMMENTS

Mayor Liptak read the following:

At this point the Borough Council welcomes comments from any member of the public. To help facilitate an orderly meeting and to permit the opportunity for anyone who wishes to be heard, speakers are asked to limit their comments to 5 minutes. If reading from a prepared statement, please provide a copy and email a copy to the Clerk's Office after making your comments.

Mark Gara, 31 Woodmere Street, Raritan, New Jersey 08869: Asked who owns the Library building.

Mayor Liptak replied the Borough owns the building.

Mark Gara commented if the Borough owns the building the Borough should be in more control of the Library. He added why is the Library Board not here, is it because they feel they can't be questioned.

Council Member Carra replied originally the Library Board responded they needed more time to compile documentation for this meeting.

Mark Gara asked are all their documents available to the public and does the Council have all of this material.

Mayor Liptak replied yes, and the Library Board asked for more time.

Mark Anderson added that was the original response, but the law suit that was initiated by the Library Board takes the position that the Borough Council does not or should not have the right to question the Board.

Mark Gara commented the Council should get rid of the people that are presently on the Library Board. He directed his question to Council Member Tozzi, is it legal for a resident to attend a close meeting, especially when the Liaison was asked to leave.

Mark Anderson replied generally no, but would need to know all the particulars.

Council Member Tozzi replied he was only asked to leave when the numbers came up.

Council President Gara added funds were not put into capital until the law was changed.

Gerry Cicero, 5 Woodmere Street, Raritan, New Jersey 08869: Suggested the Memorandum should be published in the newspaper. She added the Borough is paying for whoever the Library is using to sued us and the Borough also will pay Mr. Anderson to defend us.

Mayor Liptak replied the statement will be placed on the Borough website.

Gerry Cicero added the members should also be removed.

Mayor Liptak offered the members have a five year term by state statute. She referred to the Library Manual and suggested the Board members need training.

Gerry Cicero asked has the State authority said anything about this.

Mayor Liptak replied yes, she spoke to Victory Rosh, from the State Library and was told the Library does not have a building plan.

Council President Gara remarked the paperwork filed with the State does not coincide with their books.

Ronald Rispoli, 22 Woodmere Street, Raritan, New Jersey 08869: Asked Council Member Tozzi did you leave or stay at the meeting.

Council Member Tozzi replied he left because he knew they would not speak about the budget or any numbers with him being there.

Ronald Rispoli added there was a letter in the newspaper about what the Council is trying to do. He added they are challenging The Council.

Thomas Brown, 18 Elmer Street, Raritan, New Jersey, 08869: Responded he spoke with Michelle Strickler, from the State Development Bureau who explained the budget

processing to him. He added she also knew about the issues the Borough was having with the Library. He offered information regarding the statute pertaining to the expiration of term for Library members.

Mayor Liptak responded to the question of term expiration.

Thomas Brown commented the State made it very clear the Borough has to work this out with the Library. He added he has heard this is not the only Library and Town in the State that is going through this. He commented Libraries squirrel away money for 8-10 years so they can do what they need to do and this is the premise the Library is using. He also added the Library filed because of the subpoena. He stated he spent some time speaking with the Library Board which commented the new Accountant firm they are using has unveiled a number of items the Borough is charging the Library for.

Council Member Lobell replied the subpoena was issued after a year of requesting the information from the Library.

Mark Anderson replied this should correct the question on the expiration of terms. He advised section 40: 59-9 which is a reference to the initial term. He added the subsequent section 40: 59-10 says on the expiration of term of office any trustee the Mayor, in the case of the Borough shall appoint a term of five years.

Daniel Jaxel responded the Borough only deducts payroll from appropriation in full and benefits. He added this is just not true that the Borough charges for garbage, grass cutting and snow removal. He added this breakdown is only for State Aid applications. He stated he doesn't know what was said, but he is always open and willing to listen.

Council Member Lobell addressed his question to Mr. Brown, was Mr. Mountjoy, President of the Library Board ever asked why he wouldn't talk with the Council.

Thomas Brown replied yes, and he was told the Library Board is making a point that the Borough Council does not have the right to ask questions. He added he was also told the Council already has the answers and the numbers.

Council Member Tozzi commented the lines of communications are opened and this is not a witch hunt. He added this is just not respectful that they did not come here this evening.

Mayor Liptak commented we are all working for the good of the community. She added if they feel strongly that they are unable to work with Borough Council then we should have their resignations.

Council President Gara noted this is a slap in the face of every resident in the Borough of Raritan.

ADJOURNMENT

Council President Gara made a motion to adjourn the meeting seconded by Council Member Lobell. Motion carried at 7:22pm.

Respectfully submitted,

Rayna E. Harris, Borough Clerk

REH/cmd