

**Borough of Garwood Workshop Meeting of  
The Mayor and Council**

**WORKSHOP**

**MINUTES**

February 23, 2016

Start Time: 7:00 p.m.

Adequate notice of this meeting was provided to the Westfield Leader, and UC Local Source, advertised on January 7, 2016, notification was sent to the Star Ledger and prominently posted on the municipal public bulletin board and filed in the office of the municipal clerk informing the Public of the time and place according to the Provisions of the Open Public Meeting Law (Chapter 231, P.L. 1975).

**ROLL CALL:**

<b>Mayor Lombardo</b>	<b>P</b>		
<b>Councilwoman Cuccaro</b>	<b>P</b>	<b>Councilman Sarno</b>	<b>P</b>
<b>Councilman Martin</b>	<b>P</b>	<b>Councilwoman Todisco</b>	<b>P</b>
<b>Councilman Mathieu</b>	<b>P</b>	<b>Council President Petruzzelli</b>	<b>P</b>

Also, present: Borough Administrator/Clerk Christina M Ariemma and Borough Engineer Donald Guarriello  
Borough Attorney Robert Renaud was absent from Workshop.

Borough Engineer Donald Guarriello reported that 2015 DOT documents are still being reviewed. He mentioned he prepared estimates for County grant for all of Center Street. Pre-construction meeting next week for Center Street and Willow Avenue Sewer project

Mayor Lombardo mentioned the gas pipe that was ruptured by the water company.

Administrator/Clerk Christina M Ariemma – mentioned the e-mail sent to council regarding an OPRA request. She said she'd read the resolution later and the council can vote/discuss at that time. Ms. Ariemma read the following statement:

**“NEW JERSEY STATE HEALTH BENEFITS PROGRAM**

***History***

The State Health Benefits Program was established by Chapter 49, P.L. 1961 to provide traditional indemnity benefits for State employees and their dependents. Chapter 125, P.L. 1964 extended the program to include employees of local government at the option of each public employer. Local employers must adopt a resolution to participate in the State Health Benefits Program. The State Health Benefits Commission (SHBC) is the executive organization responsible for overseeing the SHBP. The State Health Benefits Program Act is found in the New Jersey Statutes Annotated, Title 52, Article 14-17.25 et seq. Rules governing the operation and administration of the program are found in Title 17, Chapter 9 of the New Jersey Administrative Code.

**NEW JERSEY ADMINISTRATIVE CODE**

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TITLE 17. TREASURY -- GENERAL

**CHAPTER 9. STATE HEALTH BENEFITS PROGRAM**

SUBCHAPTER 1. ADMINISTRATION

**N.J.A.C. 17:9-1.4 (2016)**

§ 17:9-1.4 Employer participation

**(a) An employer joining the SHBP must adopt the resolution furnished by the Division and must agree to comply with the statutes and rules adopted by the Commission.** The effective date of coverage for employers with fewer than 250 employees, COBRA participants and retired members will be the first day of the month following a period beginning 75 days after the receipt by the Commission of the completed resolution. The effective date of coverage for employers with 250 or more

employees, COBRA participants and retired members will be the first day of the month following a period beginning 90 days after the receipt by the Commission of the completed resolution.

### **EMPLOYER PARTICIPATION**

On November 11, 1974 the Mayor and Council unanimously adopted Resolution No. 2997:

Be it resolved:

1. The Borough of Garwood, County of Union hereby elects to participate in the program provided by the New Jersey State Health Benefits Program Act of the State of New Jersey (NJSA 52:14-17.25 et seq.) to become a participating employer and to authorize coverage for all the employees and their dependents thereunder in accordance with the statute and regulations adopted by the State Health Benefits Commission.
2. As a participating employer, we will pay and remit to the State Treasury contributions to premiums on account of employee coverage and periodic changes in accordance with the requirements of the statute and with the rules and regulations duly promulgated thereunder.
3. We hereby appoint the Borough Clerk to act as Certifying Agent in the administration of this program.
4. This resolution shall take effect immediately and coverage shall be effective as of March 1, 1975 or as soon thereafter as it may be effectuated pursuant to the statutes and regulations.

**As contained in NJAC 17:9-1.4, An employer joining the SHBP must adopt the resolution furnished by the Division and must agree to comply with the statutes and rules adopted by the Commission.**

I am the Certifying Officer for the administration of the SHBP at the local level. I add and remove employees from the system for specific reason that include the following options:

Leave of Absence, Involuntary Termination, Death, Termination, Retirement, Reduction in work hours. There is no option to remove employees for other reasons. I cannot select an option that is false. Moreover, in all the above cases I am required to offer the employee COBRA Benefits or complete eligible retiree forms in the case of retirement. COBRA has its own eligibility requirements and the passing of an ordinance to remove an employee does not create an eligible COBRA situation.

The other method to remove is a voluntary waiver. Through this process, employees can voluntary waive health care coverage by completing the program application, signing the waiver form, and providing proof of other insurance. Some employees have chosen to waive health care for coverage with their spouse. The governing body cannot force employees to sign the waiver through passing of an ordinance or any other method. I have heard many of you talk about other municipalities that have removed eligible elected officials from the system. The elected officials had to agree to waive the health care and provide proof of other insurance. I doubt the certifying officer of those municipalities selected a false situation to remove employees. A certain municipality rescinded the ordinance because they probably realized they could not remove the elected official against his will, which is what I am telling you tonight. In any event, this certifying officer will not select a false option to remove the employee. The State Health Benefits Commission is the authority that regulates the State Health Benefits Program and sets the statutes and rules to govern the program; it is not the Governing Body. Adoption of an ordinance that does not comply with the rules of the program has no authority to remove any employee from the program unless the removal is compliant with the rules, and statutes.

Chapter 2, P.L. 2010, effective May 21, 2010 (section below) exempted newly elected officials from being eligible for employer paid health care coverage because under the new law they are required to work a certain number of hours to be eligible. Prior to passing of this law, elected officials were entitled to employer paid health care coverage with no minimum hour requirement.

### **MINIMUM WORK HOURS FOR COVERAGE**

Any employee or officer of the local employer or the State who met the minimum work hour requirements prior to May 21, 2010 will be eligible for continued coverage under the SHBP/SEHBP provided there is no break in the employee's service or reduction in work hours.

There has been no break in service therefore the elected official cannot be removed from the system by adoption of an ordinance."

### **UNFINISHED BUSINESS - NONE**

### **NEW BUSINESS - Mayor Lombardo**

As a member of the Union County Community Development Block Grant Social Services Committee, we were reviewing a grant for Union County College Senior Life Programming. To my surprise, I discovered that a music appreciation class is being held in Garwood at the Village of Garwood facility. The class on music appreciation is held on Wednesdays at 10:00 AM and is scheduled to run from February 10 through May 4. Registration for this class is still available at this time.

Last week I attended a meeting of all Union County Mayors and legislators with Senate President Sweeney, held at Union County College. It was a general meeting about the concerns of the mayors. It was no surprise to me that the communities have many of the same basic problems. Major issues that were discussed were the Infrastructure Trust Fund being empty by June of 2016, affordable housing requirements, the school funding formula, shared services, and last but not least, Rahway Valley sewerage rates and generally tough economic times around the state.

Garwood Borough is providing a new service to residents, whereby they can pay their taxes on line. As is the practice in many surrounding communities, this service is growing in popularity and is a convenient method of paying taxes. In order to participate, taxes must be current, and late payers still have to visit our tax office in person.

If you visit the Garwood website at [www.garwood.org](http://www.garwood.org), you will see, at the top right corner, a place to click to avail yourself of this service. Be aware, however, that there are fees associated with this service that are set up by the credit card companies - not the Borough, and the Borough does not keep any of the extra fees for using this convenience.

### Comments or matters for discussion from members of Council:

**Councilwoman Cuccaro** - I would first like to start with some info I have received on moving forward on speed bumps in town. I believe the best place to start is on 4<sup>th</sup> by the Westfield border, onto walnut in front of the school, and on the Indy 500 section of Second Avenue that comes into town from Holly street.

I spoke to the Mayor of Westfield and he put me in touch with Jim Gildea the town administrator. He was very helpful in the process they went through, he also said it has worked out extremely well. They had them installed on Benson which I travel every day, Rahway Avenue and Gallows Hill Road. There were a few steps to go through to get the ball rolling. The first was a comprehensive traffic consultant, he recommended the RBA group. Once that study was done, and if it supports installation of a speed bump, then a traffic engineer is brought in to go over all the options. He said they had 3 public meetings to go over their exploratory summaries with the residents, which was very helpful in shaping the dialogue. Of course, most important is the cost, which he stated would be 20-\$30,000 for the consultant alone.

Which leads me into the next point I want to make. The cost for the health benefits of our current councilperson for one year would pay for the consultant. The same cost for benefits for the following year would go a long way to pay for the actual bumps, which would be upward of \$50,000. I think Mr. Spock of Star Trek said it best, "The needs of the many outweigh the needs of the few" In this case one. Is it not our number one responsibility to protect the safety and well-being of the people that reside in our town?? I believe it is. Which leads me to my final observation regarding the real grandstanding taking place each week since Joe and myself have been elected to council. Grandstanding 101. A past councilperson waving a 50-dollar check in the air with prepared comments embarrassing himself while trying to demean a fellow resident and taxpayer, shame on you for this behavior. First of all if you wanted to do what was right and for the right reason, that check should have been made out to the Boro of Garwood, not to the person you were belittling. Better yet, if you were really serious about helping the situation and not spouting self-serving talking points, how about writing that check for the total amount of \$32,000 to the Boro of Garwood. Speed bumps here we come!!!! How about making a check out to each and every resident of Garwood. Your 50-dollar grand gesture meant nothing. It was grandstanding, demeaning, and an embarrassment to all who sat in this room. What you thought that would accomplish, only you would know. To all those who have come to each meeting with prepared statements, I have a suggestion. Look up from your prepared scripts and pay attention to what is really going on. Before attacking us, how about you better inform yourselves on the issues? You might actually be surprised at what is really going on.

**Councilman Martin** – *no report*

**Councilman Mathieu** – mentioned the janitorial contract with the Board of Education will be renewed for 3 years with a 2% increase per year.

**Councilman Sarno** – *no report*

**Councilwoman Todisco** – *no report*

**Council President Petruzzelli** – said he is done talking about his benefits. He said he will not waive them and stated do not ask him again.

### PUBLIC COMMENT:

Is there anyone in the audience that wishes to address the mayor and council please step to the microphone, sign in, state your full name and address. Please limit your comments to three minutes.

Jeff Sylvester, 554 Myrtle Avenue commented on the health benefits matter.

Bruce Paterson, 325 Willow Avenue expressed his frustration on taxes and related matters.

Richard King, 412 Hazel Avenue commented on the health benefits. He also commented that Councilman Petruzzelli does a great job. He asked council to work together in Garwood.

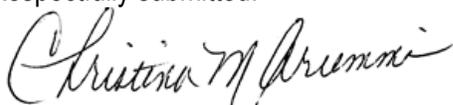
Paul Nieves, 263 Fourth Avenue read the following statement:

"I respectfully request that the confidential memorandum of Attorney Robert Renaud drafted to the Garwood borough council, be released to me and the public pursuant to the Open Public Records Act. I believe releasing the memo promotes transparency and would be in the public interest. As you all may recall Councilman Sarno stated the memo permitted the revocation of the state mandate and he actually moved to have a resolution to that effect. Councilman Martin on the other hand believed that the memo stated it would be unlawful to revoke a state mandate. It is my conviction that as a citizen and a taxpayer of Garwood, in the spirit of the platform that the Republicans ran on, that transparency demands that we know the actual opinion of the Garwood council's attorney is, regarding the legality of passing a resolution to revoke a State required mandate. Releasing the memorandum will also hold those that vote on this looming resolution accountable should legal action ensue. The tactic, techniques and procedures employed by several members of council during the last council meeting regarding Councilman Petruzzelli's benefits healthcare was and is shameful. How dare you Councilman Mathieu, ask Councilman Petruzzelli what his salary is. How dare you ask if he is willing to forego healthcare benefits for his wife and children, knowing that they are legally entitled to them? How dare you ask him to pay for his entire health care benefits without knowing anything about his family and his personal finances. How dare you ask him to contribute to something you know he has no legal obligation to contribute toward? How dare you Councilman Mathieu ask Councilman Petruzzelli if he is willing to forego his legal rights and access to our courts should his family's healthcare benefits be revoked. The resolution to revoke Councilman Petruzzelli's healthcare mandate has nothing to do with fiscal responsibility and everything to do with misplaced loyalties and respecting and following the law. Voting against the funding of a legal mandate and or obligation has had negative consequences and may expose this council to legal liability without protection of liability insurance. I have here in my hand copies of this ordinance, resolution and settlement of the lawsuit that was paid out as a result of not honoring a legal obligation. Many of you recall that this council was sued and Councilman Mathieu personally named in a lawsuit that resulted in our taxpayers having to pay over \$30,000.00 in compensation and the insurance paying over \$45,000.00 in counsel fees. Does council really want to run the risk of litigation again, at the instigation of Councilman Mathieu? Does council really want to run the risk of the insurance company not proving coverage this time because you voted contrary to the advice of your counsel? Voting against a state mandate may not only be illegal, but mean spirited and contrary to the will of the people. What greater act of hypocrisy is there when those that oppose the firing of Fred Corbitt on humanitarian grounds now favor leaving a family with a special needs child without healthcare coverage? What greater act of hypocrisy is there is there when you claim that it is the will of the people to cancel Councilman Petruzzelli's healthcare coverage, despite having been re-elected twice after the law came into effect? If you vote in favor of revoking the health care benefit, I ask you that you first pledge to keep the DPW shared service agreement in effect and not burden our taxpayers with and additional \$70k liability. This would demonstrate consistency of convictions and moral political courage. I anticipate that those in favor of skirting the law will do as Councilman Mathieu did during the last council meeting; regurgitate a bunch of figures compare them to other liabilities we currently have and then close repeating the grand total that is has cost \$168k to pay for Councilman Petruzzelli's healthcare benefits to date. What they will not mention is that those costs were legally mandated. If they really had a problem with this mandate they should have petitioned Trenton to change the law. If they really were offended by this mandate they should have made it an issue during both election campaigns. If this is really about fiscal responsibility then they would not have run a campaign to overturn the DPW agreement at a cost of twice the current legal healthcare mandate. Many in favor of ignoring the May 2010 healthcare mandate will call it a loophole. I as a lawyer and citizen of New Jersey have more respect for the will of our State Legislatures and I call the May 2010 statute the law which must be honored. For all of these reasons I respectfully request that the confidential memorandum be released to the public and or that you vote no to the resolution revoking the State healthcare mandate. Thank you."

**ADJOURNMENT:**

At 7:28 p.m. a motion to adjourn the workshop session was made by Councilwoman Todisco followed by a second from Council President Petruzzelli

Respectfully submitted:



**CHRISTINA M. ARIEMMA, Municipal Clerk**  
Borough of Garwood