

Report to the City Council of the City of Plainfield  
Concerning Investigation of the WBLS Town Hall Meeting  
Held on August 1, 2010

Ramon E. Rivera, Esq., of the firm of Scarinci Hollenbeck, was hired as an independent counsel to conduct the initial inquiry on behalf of the Plainfield City Council, with regard to the payments made to the WBLS radio station concerning an August 1, 2010 Town Hall Meeting. Pursuant to that resolution, adopted by the City Council on April 11, 2011, we have conducted an investigation of the events leading up to the Town Hall Meeting. This investigation included reviewing issues on compliance with the Local Public Contracts Law, Municipal Fiscal Affairs Law, and compliance with the City of Plainfield budgeting and contracting requirements. The results of that investigation, as well as possible recommendations concerning the investigation, follow in this report.

## FACTS

This investigation began with a request for public records from the City Attorney, as well as from the current Business Administrator, for the City of Plainfield. The following persons were subpoenaed to testify with regard to this investigation:

1. Mayor Sharon Robinson-Briggs;
2. Bibi Taylor;
3. Dan Williamson;
4. David Spaulding;
5. Debra Cosby; and
6. Lucas Phillips, Jr., Esq.

The following exhibits were marked at the hearing:

- P-1 Purchase Order dated July 30, 2010 stating it is to WBLS for \$20,000.00
- P-2 Invoice No. 65980 from Inner City Broadcasting, 107.5 BLS-FM addressed to Mayor Briggs for the BLS broadcast services for \$20,000.00 dated July 30, 2010
- P-3 Check No. 000486 from the City of Plainfield dated July 30, 2010 for \$20,000.00 payable to WBLS - description community event
- P-4 Check from Investors Savings Bank dated July 30, 2010 payable to the City of Plainfield for \$15,000.00 - invoice description Plainfield Rec/Bro 6, July for sponsorship
- P-5 Budget account status as of July 30, 2010 showing Division of Information Technology line item 1-01-20-130-003-234 hardware and software maintenance - \$20,000.00

- P-6 Memo to Debra Cosby from Bibi Taylor dated July 30, 2010 - re: check request August 1, 2010 Town Hall Meeting
- P-7 July 30, 2010 memo from Bibi Taylor to Debra Crosby re: check request August 1, 2010 Town Hall Meeting (with different handwriting on the memo)
- P-8 Statute N.J.S.A. 40A:5-16, Local Fiscal Affairs Law, concerning payment of monies by a local unit

Mayor Sharon Robinson-Briggs referred to additional documents in her testimony but did not produce any of these documents at the hearing or after the hearing. We have sent a follow up letter to her attorney to produce the documents, but have had no response.

- T-1 Transcript of September 21, 2011 testimony
- T-2 Transcript of October 19, 2011 testimony
- T-3 Transcript of November 9, 2011 testimony
- E-1 Transcript of Executive Session - September 21, 2011
- E-2 Transcript of Executive Session - November 9, 2011

In addition, my office has spoken to Caren Fischer at Investors Savings Bank. We have also spoken to Bob Swisher, the City Auditor from Suplee Clooney and Company. Of the people subpoenaed to testify, Bibi Taylor, Dan Williamson, David Spaulding, and Mayor Sharon Robinson-Briggs all appeared at special meetings of the City Council. Debra Cosby and Lucas Phillips, Jr., Esq. failed to attend any hearing. Lucas Phillips, Jr., Esq. indicated that he would be out of the country on the hearing date. He also indicated that he had no knowledge of the WBLIS event before it occurred. Mayor Sharon Robinson-Briggs did receive the first subpoena to appear at the first hearing. Through her attorney, she refused to appear at the first hearing. She did appear at the second hearing, after a second subpoena was served on her through her attorney.

David Spaulding was served with a subpoena to appear at the first hearing but through his attorney also declined to appear. He was served with a second subpoena and did appear at the second hearing.

### **MAYOR SHARON ROBINSON-BRIGGS**

Mayor Sharon Robinson-Briggs testified that she planned a Town Hall Meeting for August 1, 2010 in light of an increased amount of gang violence that had appeared in Plainfield and surrounding communities. (T-2, page 28) She said she sought bids or proposals from various radio stations to conduct this Town Hall Meeting. (T-2, pages 28 and 49) The Mayor stated that the Town Hall Meeting was authorized under emergency powers given to her as Mayor. (T-2, page 31)

Mayor Sharon Robinson-Briggs testified that she felt that this broadcast and Town Hall Meeting was an emergency situation in light of the gang violence in the area. She also indicated that the City had received a \$15,000.00 sponsorship check for this event. She felt that under the City Charter, Section 3.7, that in the event of an emergency where a clear and present danger occurs, that she can expend funds in those instances. (T-2, page 31)

The Mayor also stated that she had obtained quotes for determining which radio station should perform these services. She indicated that she would provide the quotes to the City Council, but has not done so.

Mayor Briggs also indicated that she spoke to Dan Williamson, Esq. and Lucas Phillips, Jr., Esq. regarding the issues of whether or not this Town Hall Meeting qualified as an

emergency service. (T-2, page 59) Both of these attorneys denied that the Mayor spoke to them about legal issues concerning this event.

The Mayor also indicated that she was never told that a check could not be issued to pay for this event prior to the event occurring pursuant to the Local Fiscal Affairs Law, N.J.S.A. 40A:5-1 et seq. The Mayor also testified that she did not understand that she could not write a check for services based on a donation of a check until the check had cleared, but she thought that since this was a “media” event that the media budget would be used for this Town Hall Meeting. (T-2, page 85)

The Mayor also testified that she spoke to a representative at Investors Savings Bank and indicated that they would like to use the donation for an upcoming event. Our office spoke to Caren Fischer at Investors Savings Bank, who indicated that the check was submitted to the City to be used specifically for the July 4<sup>th</sup> events which they agreed to sponsor.

**DAVID SPAULDING**

David Spaulding, Purchasing Agent for the City, testified with regard to the process used to requisition checks for the payment for the event. Mr. Spaulding also testified that he understood that checks are not to be written for services that were yet to be provided. He indicated that he did not know why the check was cut on July 30<sup>th</sup> for an event that occurred on August 1, 2010. (T-2, page 121) He stated that he would not sign off on a purchase order unless the Division or Department head had signed prior to him and therefore he bases his signature on the fact that the Division or Department head had already signed and certified that the work had been performed. David Spaulding also testified that he was never told that this was an emergency contract. (T-2, page 128)

**DAN WILLIAMSON, ESQ.**

Dan Williamson, Esq. testified he had one or two conversations with the Mayor regarding the WBLs event before the event occurred. (E-2, page 32) One conversation occurred at a cabinet meeting, where he indicated the Mayor did not want to provide details of the event. (E-2, page 33) He also stated he had no conversation with either the Mayor or Purchasing Agent concerning the legality of the payment to WBLs for the event.

He never discussed the possible “emergency services” or payment made prior to the event. (E-2, pages 33 and 34) Dan Williamson, Esq. stated he did not have any discussion with the Mayor even after the event about the payments for the event. (E-2, page 34)

Dan Williamson, Esq. participated via one conference call with the Mayor and City Administrator and people from WBLs concerning logistics with the actual Town Hall event, but there was no discussion of payment for the event. (E-2, page 36)

Dan Williamson, Esq. did not provide any legal advice to the Mayor or City Council on this expenditure for the WBLs event. He stated he believed that he could not be put into a position to challenge either actions of the Mayor or Council when they could conflict. (E-2, page 42)

## **BIBI TAYLOR**

Bibi Taylor (former City Administrator) testified that at the July 28, 2010 cabinet meeting was the first time the Mayor asked for funds for the Town Hall Meeting. (E-2, page 56) The Mayor indicated “you don’t want to know the details and giggled”. (E-2, page 57)

Bibi stated she attempted to get funding for the event from the Prosecutor’s Office but she was unable to obtain funds from them. (E-2, page 58) The Administrator initially thought that there was over \$16,000.00 in the community events sub-line budget that was available for the event, but later learned that this was a mistake. (E-2, pages 62 and 65) On Friday, July 30, 2010, she advised the Mayor that the funding she thought was available was already encumbered. (E-2, page 67)

The Administrator had no knowledge of the Mayor obtaining quotes for the Town Hall Meeting. (E-2, page 69) Bibi Taylor did not discuss with Investors Bank using their funds for the Town Hall Meeting. (E-2, page 69)

The Administrator did not sign on the WBLS purchase order. The purchase order was signed by the Mayor, Norman Christopher Payne (IT manager) and David Spaulding (Purchasing Agent). (E-2, page 70)

Bibi Taylor testified the Mayor never asked her for advice on the funds for the event. She only asked how they could use a sponsorship check to issue a City check. (E-2, page 72) The former Administrator also testified she questioned the Mayor about getting funds that same day. (E-2, page 73) She testified about a series of telephone calls between herself, the Mayor, the Audit and Control Department, and Purchasing Agent about issuing a check for the WBLS event. (E-2, pages 74 -76)

Bibi Taylor did prepare and send a memo to the Audit and Control Department concerning the procedure for issuing a check. (E-2, pages 77 and 6) She also testified about the Mayor writing a note on this memo about a CYA memo. (E-2, pages 79 and 7) Bibi Taylor also stated that the Investors Savings check was dedicated to the July 4<sup>th</sup> sponsorship and therefore could not be used for the WBLs event. (E-2, page 82)

Bibi Taylor stated that Dave Spaulding was responsible to make sure the Local Public Contracts Law was complied with to issue the check for the WBLs event. (E-2, page 87)

**CAREN FISHER - INVESTORS SAVINGS BANK**

My office spoke with Caren Fisher by telephone in August 2011 concerning the funds for the WBLs event. Caren indicated that she was involved in processing this check. She said that the funds were earmarked for the July 4<sup>th</sup> sponsorship of the fireworks and parade that the City of Plainfield held. She indicated that the check was sent to the City after the event because the person at the bank who had to sign off on the check was away and had to catch up prior to issuing the check. She indicated that there was no mention of using these funds for the sponsorship of the WBLs event.

My office followed up with a telephone call to Caren Fisher regarding an application for the sponsorship but was unable to obtain a return call from her.

**BOB SWISHER, AUDITOR - SUPPLEE CLOONEY**

My office spoke with Bob Swisher regarding issues concerning the funding of the WBLS event. He stated that he thought that using funds from the Information Technology software maintenance line item was not appropriate for this event. He thought that the City Council should have been asked to approve a budget line item transfer to use these funds for this event. He also indicated that the funding of the event before the services were rendered was in violation of N.J.S.A. 40A:5-16.

## CONCLUSION

Mayor Sharon Robinson-Briggs sought to have a Town Hall Meeting on August 1, 2010 and required \$20,000.00 to pay to the radio station (WBLS) which was bringing all of the speakers to the event. Funding for this event was not approved by the City Council. WBLS submitted an invoice for various services, dated July 30, 2010, which included broadcasting the event, for \$20,000. On July 30, 2010 a \$20,000 check was issued to WBLS prior to the event occurring. WBLS signed an invoice with a certification that the bill is accurate and three officers of the City certified that the services were provided. The check was issued for the event on July 30, 2010. The three City officers' signatures were affixed by 7/30/10, although only one is dated 7/30/10. Further, monies were used from the Information Technology Hardware/Software Maintenance line item to pay for the Town Hall Meeting. The bid threshold at the time of this event was \$26,000.00 therefore formal bids were not required but 3 quotes were still necessary, if possible to obtain. The Mayor indicated that she obtained 2 quotes for these services but failed to provide these quotes. David Spaulding did not testify that any quotes were obtained for these services.

In light of the above, the proper Local Public Contracts Law and Local Fiscal Affairs Law procedures were not followed by the Mayor Sharon Robinson-Briggs and David Spaulding in connection with the funding of the Town Hall Meeting. Bibi Taylor, the former Business Administrator confirmed that Mr. Spaulding was responsible for ensuring that the Township complied with Local Public Finance Law. Mr. Spaulding also confirmed this fact.

Indeed, Mrs. Taylor repeatedly asked the Mayor for detailed information on the Town Hall Meeting, which was not provided. There were numerous telephone calls on the between Mrs. Taylor, Mr. Spaulding and the Mayor concerning the check for WBLS. Finally, Mrs.

Taylor wrote a memorandum detailing the procedures for the issuance of a check which resulted in the Mayor claiming that Mrs. Taylor was covering her actions. In sum, the actions by Mr. Spaulding and the Mayor in signing the Purchase Order confirming that services were rendered prior to the services being rendered clearly violated Local Public Finance Law.

N.J.S.A. 40A:5-16 states

“the governing body of any local unit shall not pay out any of its monies (a) unless the person claiming or receiving the same shall first present a detailed bill of items for demand, specifying particularly how the bill or demand is made up, with the certification of the party claiming payment that it is correct. The governing body may, by resolution, require an affidavit in lieu of said certification, and the clerk or disbursing officer of the local unit may take such affidavit without cost, and (b) unless it carries a certification of some officer or duly designated employee of the local unit having knowledge of the facts that the goods have been received by, or services rendered to, the local unit.”

The funds which resulted in payment of the WBLIS invoice were issued on July 30, 2010, two days prior to the Town Hall Meeting occurring. Clearly, although the purchase order was signed by the Mayor, David Spaulding and the Department Director from the IT Department, the services were not provided before the check was cut. Therefore, the Mayor, David Spaulding and the IT Department Director violated the law by certifying that services had been received for the WBLIS event prior to the event actually occurring.

In addition, the budgeted line item where the funds were taken was the Information Technology Hardware/Software Maintenance line item. That line item was not the appropriate line item to pay for a Town Hall Meeting. Bob Swisher, the City Auditor, confirmed that this was not the appropriate line item and that the City Council should have acted, if requested, to move the funds to the appropriate budget line item for payment of these services.

Funds were submitted by Investors Savings Bank in the amount of \$15,000.00. The check submitted indicates it was to be used for the July 4<sup>th</sup> program. There is disputed testimony

as to whether Investors Savings Bank agreed to switch the sponsorship to a different community activity. However, the funds were not received by the municipality until July 30, 2010 and therefore were not deposited in time to be cleared for a check to be written on July 30, 2010. Even if the check was to be used for the WBLS event, it was not sufficient, since it was only \$15,000.00 and \$20,000.00 was paid for the event. As such, there was a \$5,000 balance that was paid for by the City for the Town Hall event.

During the Mayor's testimony she also stated that she received numerous bids or quotes from other Radio Stations for the Town Hall event. However, when questioned, the Mayor did not have any information on who submitted a bid or quote, how much each vendor bid or any other relevant information. Bibi Taylor, when questioned on this issue, stated that she was unaware of the Mayor's efforts to solicit quotes. She further stated that such an act by the Mayor would be very rare since the purchasing department would usually handle obtaining quotes. Based upon the foregoing, the Mayor's testimony on this issue was not credible. She failed to provide any back up documents or information to support her contention that she obtained quotes or bids for the Town Hall meeting. Furthermore, neither Mrs. Taylor nor Mr. Spaulding had any knowledge of the alleged quotes the Mayor stated she received.

There was no "emergency" under N.J.S.A. 40A:11-6 to obtain these services. An emergency is one that "affects the public health, safety or welfare requiring immediate delivery of goods or the performance of services". First, there was advertising that was paid for prior to the event and therefore the event was not an emergency. The process was not followed under the Local Public Contracts Law for an emergency under N.J.S.A. 40A:11-6. Under that process, an official of the agency where the emergency occurred shall notify the Purchasing Agent of the need for an emergency contract and the reason for evoking this section of the statute. If this

emergency exists, then the person is authorized to award a contract for the services. The notification shall be reduced to writing and filed with the Purchasing Agent as soon as practicable. There was no formal written notice filed with the Purchasing Agent concerning this emergency. Therefore, no emergency was declared by the Mayor or City officials.

Additionally, the Mayor's testimony on the issue of whether the WBLS services constituted an "emergency" was not found to be credible. Each of the other witnesses who were questioned stated that the Mayor never advised or raised the issue of the WBLS Town Hall meeting being an "emergency" service. In fact, Mr. Spaulding stated that the first time he had heard that the Mayor considered the Town Hall event an "emergency service" was at the public hearing in this matter. As such, based upon the foregoing, the Mayor's testimony was not found to be credible.

## RECOMMENDATIONS

1. Mayor Robinson-Briggs should be admonished from directing her cabinet members to take actions that would violate the Local Public Finance Law. Based upon the facts in this matter, the Mayor repeatedly demanded that a check be issued prior to services being rendered by WBL.
2. All purchasing staff, including David Spaulding, must adhere to the Local Public Finance Laws concerning obtaining quotes for services to be provided and for the payment for goods and services.
3. Mayor Robinson-Briggs, David Spaulding and the Director of IT should be reprimanded for their actions in certifying that goods and services were provided by WBL prior to those services actually being provided on the date certified.
4. The Department heads and Purchasing Department and Auditing and Control Department personnel should be required to take updated purchasing seminars concerning the procedure for executing purchase orders or emergency purchase, as well as for depositing funds donated to the municipality, before they are expended by the municipality.
5. The Business Administrator should be allowed access to the Edmunds Program to track purchases in order to further confirm information from auditing control concerning the expenditure of funds.
6. The Administrator, as opposed to the Mayor, should be the alternate signatory for the CFO in order for purchase orders to be processed.

