

**MINUTES  
REGULAR MEETING  
MUNICIPAL COUNCIL – BOROUGH OF RED BANK  
SEPTEMBER 13, 2017  
6:30 P.M.**

**PLEDGE OF ALLEGIANCE**

**ROLL CALL**

**PRESENT:** Mayor Menna and Council Members Yngstrom, Zipprich, Horgan, Schwabenbauer, Taylor and Whelan.

**ALSO PRESENT:** Borough Administrator Sickels, Borough Clerk Borghi, Chief Financial Officer Poulos, Engineer Neumann, Attorney Cannon and Redevelopment Attorney London.

**SUNSHINE STATEMENT**

Mayor Menna requested the minutes reflect that, in compliance with Public Law 1975, Chapter 231 (Open Public Meetings Act), notice of this meeting has been provided by notifying the Asbury Park Press, the Two River Times and the Star Ledger and by placing a notice on the bulletin board and filing same with the Borough Clerk on January 1, 2017.

**WORKSHOP**

**Trolley-**Councilman Whelan said the proposed trolley services was a great opportunity to help people get to various locations in town. He said the service would be provided at no cost to the Borough. He said he was asking Council to approve a 90 day trial period.

Councilman Zipprich said it had been discussed in the Parking Committee and had unanimously been approved.

Mayor Menna said he saw no reason not to go ahead with it and said the introduction of the ordinance could be added to the agenda.

Attorney Cannon reviewed the ordinance included state classifications of vehicles and state rules regarding jitney as well as the fees. He said it was similar to the taxi ordinance.

A discussion followed on how the service would operate.

Administrator Sickels noted that it would be subject to approval by the County since it would operate on a County road.

**White Street Redevelopment RFPs**—Mayor Menna reviewed the history of the White Street Redevelopment Plan process and thanked the Council members for their discussions regarding various aspects of the matter. He said he believed the Council had reviewed a number of options regarding the RFPs and was prepared to move forward. He asked Attorney Cannon to offer details.

Attorney Cannon said he and Redevelopment Attorney London had worked together to development items for this agenda and the next. He said the first matter was to rescind the Redevelopment Plan which was the subject of a lawsuit. He said that would wipe the slate clean regarding the project. He said there was also a resolution on this agenda to confirm that a resolution would be place on the agenda for the next meeting to reduce the number of developers in consideration from five to two and provide for continued discussion on what the project would look like.

Attorney London added that the rescission would allow the Council to look at other options that could not have been pursued with the Redevelopment Plan in place. She said the action was in the best interest of the Borough.

Mayor Menna asked if the Council had any questions or comments.

Councilman Zipprich said the Governing Body had done a lot of work on the matter and had come together on the issue. He said he was pleased with the developers' flexibility to discuss projects that would better fit Red Bank. He said he felt the ordinance and resolution on the agenda were a good compromise. He thanked the Attorneys for their work on the matter. He said the democrats on the Council had been concerned with the proposed size of the project and the lack of public input. He reiterated that the plan would be rescinded and that the Council would continue to work with two of the developers. He said public comment would begin at this meeting and would continue at a public forum on the 27<sup>th</sup> at the Primary School. He thanked Councilman Whelan for coordinating that meeting. He said he looked forward to continuing to work together with the entire Council.

Councilman Whelan thanked Councilman Zipprich for his comments and said it was well said. He also thanked Councilwoman Horgan and Councilman Yngstrom for having an open mind. He said he was happy they had come to a consensus.

Councilman Zipprich said he wanted to add that local government was supposed to work together for the betterment of residents and the business community.

Mayor Menna said it was a extraordinary exercise by all Councilmembers and an example of collegiality and working together. He read the ordinance and resolution to be added to the agenda.

**APPROVAL OF MINUTES – August 23, 2017**

Councilman Zipprich offered a motion to approve the minutes, seconded by Councilman Taylor.

**ROLL CALL:**

AYES: Yngstrom, Zipprich, Horgan, Schwabenbauer, Whelan, Taylor

NAYS: None

There being six ayes and no nays, the minutes were declared approved.

## **MAYORAL APPOINTMENTS**

Mayor Menna appointed Steven Murphy to the Animal Welfare Advisory Committee.

## **REPORTS OF MAYOR AND COUNCIL MEMBERS**

Councilwoman Schwabenbauer reported that Moody's had issued their annual report regarding the Borough's credit position. She said the Borough had maintained its AA3 rating noting that this reflected a very healthy credit position. She reviewed the specific comments and said, once it was finalized, it would be posted to the Borough's website.

Councilman Taylor said the Code Committee would be meeting soon and expected to bring forward code changes that would address quality of life issues as well as general revisions. He said the Environmental Commission had met the previous night and said the Green Team had submitted the second of three submissions to Sustainable Jersey for recertification to improve upon the Borough's Bronze status. He said the Commission would be hosting an event on October 10<sup>th</sup> at their first meeting of the month. He said the meeting would be solely focused on bike and pedestrian safety issues.

Councilman Whelan congratulated Ray Weston, who he noted served as a Councilman, Fire Commission and Fire Chief, for 50 years of service with the Red Bank Volunteer Fire Department. He said the members of Westside Hose had held a party in his honor the previous week. He said he wanted to thank the Parking Committee again for their hard work.

Councilwoman Horgan said Library Director McDermott had asked her to acknowledge Sue Viscomi for her extensive volunteer efforts to record interviews with local residents that will become part of the library's archives. She reviewed upcoming programs to be held at the library in September. She also noted the Red Bank Elks had hosted a moving 9/11 remembrance ceremony.

Councilman Zipprich agreed that the Elks ceremony had been a somber evening and said they had done a wonderful job. He also reported that due to the Governor's freeze of the Transportation Trust Fund last year, the road program had had to be delayed. He reviewed the roads to be included in this year's program.

Councilman Yngstrom said the Red Bank Recreation Fall Newsletter would be out next week. He reviewed fall sports that were currently underway and reported on upcoming sign ups. He also announced a winter photo contest and said the Halloween Parade would be held on October 22. He said additional Halloween events were in the works and also reported on a family trip to Cheesecake Farm on October 14.

Councilman Zipprich noted the Environmental Commission Green Team may want to look into the photo contest.

Mayor Menna thanked the members of the Environmental Commission. He said we all need to be more conscious of the resiliency issue and said the Governing Body was looking forward to working with the Commission. He also announced that comment forms were now available to the public in municipal offices and on the Borough website. He thanked the Council and Borough staff for their support. He thanked the members of the newly formed Animal Welfare Advisory Committee. He said he had attended the first meeting and was thrilled with their enthusiasm. He also reported that the Council was looking forward to a new ordinance regarding signs and thanked Councilman Taylor for moving it along. He said the Council would be moving on a number of initiatives once they got past the meeting of the 27<sup>th</sup>. He reported that the Borough would be losing a major corporate resident but noted that another stakeholder would be taking over the property with more to be announced later on resulting in an increased rateable. He said the message was that Red Bank was open for business and was evolving to remain competitive. He noted the Count Basie Theatre project would have a ground breaking next week and spoke of the positive benefits of the theater.

## **COMMUNICATIONS AND PETITIONS**

Mayor Menna read a request from residents of John Street to hold a Block Party on September 30, 2017 and to close John Street from Prospect Avenue to Harrison Avenue from 2pm to 11pm.

Councilman Whelan offered a motion to introduce the ordinance, seconded by Councilman Zipprich.

ROLL CALL:

AYES: Yngstrom, Zipprich, Horgan, Schwabenbauer, Taylor, Whelan

NAYS: None

There being six ayes and no nays, the motion was declared approved.

## **PUBLIC COMMENT—Ordinances on Resolutions Only**

Mayor Menna opened public comment on ordinances on first reading and resolutions only.

Stephen Hecht—135 Branch Avenue—said he understood the Redevelopment Plan was being rescinded but said he did not understand how there would be a Redevelopment Plan for just two of the developers.

Mayor Menna explained that there was not a new redevelopment plan but explained that the Borough would continue discussions with two of the developers. He said the White Street lot was no longer the subject of a redevelopment plan. He said the ordinance that was being challenged in court was being rescinded which would

eliminate the litigation. He said the White Street lot would go back to its original designation. He added that there would be full discussions on the matter on the 27<sup>th</sup> assume the ordinance is adopted.

Mr. Hecht said he also had a question about resolution 17-213. He asked who the Borough's valuation expert was.

Attorney Cannon asked if he meant the appraiser that provided the appraisals for defense of tax appeals.

Mr. Hecht said he did not know what he meant. He said the resolutions referenced the Tax Assessor, the Attorney and the Borough's Valuation Expert.

Attorney Cannon said that would be the appraiser. He said the Borough typically used Bob Gagliano but he could not say for sure whether or not he worked on this particular case.

Mr. Hecht asked if he was a vendor or professional that was paid by the town.

Mr. Cannon said he was. He reviewed different procedures that were used but said he was not sure of Red Bank's procedure.

Mayor Menna said, normally, if the Borough needed an appraisal to defend its report, they would need to pay for that report. He said there would be a set fee for that that would be provided in a quote. He added that Attorney Dan O'Hern had represented the Borough of this case in question. He said he did not know if they had paid for a report but he said they certainly would have paid for Mr. O'Hern's time.

Mr. Hecht asked if the Tax Assessor was not admitted as an expert by the court or if he had a conflict.

Attorney Cannon said they always had to hire an outside expert. He said the court would not believe the town's own Tax Assessor.

Mr. Hecht confirmed that this was regarding a settlement.

Attorney Cannon said that was correct and said it was not a settlement.

Mayor Menna agreed and said the results of the settlement would result in a refund.

Mr. Hecht asked if a valuation expert was necessary if the matter was not before the court.

Attorney Cannon said not always but that it would depend on the situation. He reviewed situations that would warrant the hiring of the valuation expert.

Greg Held—31 Spring Street—thanked the Council for the steps taken to resolve the issues with the parking project and how long parking had been an issue in town.

No one else appearing, Councilman Zipprich offered a motion to close the public comment portion, seconded by Councilman Taylor.

ROLL CALL:

AYES: Yngstrom, Zipprich, Horgan, Schwabenbauer, Taylor, Whelan

NAYS: None

There being six ayes and no nays, the motion was declared approved.

#### **ORDINANCES – First Reading**

2017-31 Mayor Menna read "An Ordinance Approving New Zoning Map and Amending Chapter 490: "Planning and Development Regulations" to Include New Zoning Map." (PH 10/11/2017)

Councilman Yngstrom offered a motion to introduce the ordinance, seconded by Councilwoman Schwabenbauer.

ROLL CALL:

AYES: Yngstrom, Zipprich, Horgan, Schwabenbauer, Taylor, Whelan

NAYS: None

There being six ayes and no nays, the motion was declared approved.

Mayor Menna noted the Ordinance would be referred to the Planning Board and the Public hearing would be held on October 11, 2017 at 6:30 p.m.

Attorney Cannon said the Ordinance would not include any new zoning changes but was the memorialization of items that had been passed since 2010 so that it would be included in the Borough's Code.

2017-32 Mayor Menna read, "An Ordinance Amending the Revised General Ordinances of the Borough to Insert New Chapter 412: "Jitneys".

Councilman Whelan offered a motion to introduce the ordinance, seconded by Councilman Taylor.

ROLL CALL:

AYES: Yngstrom, Zipprich, Horgan, Schwabenbauer, Taylor, Whelan

NAYS: None

There being six ayes and no nays, the motion was declared approved.

Public hearing to be held on September 27, 2017 at 6:30 p.m.

2017-33 Mayor Menna read, “An Ordinance Rescinding Ordinance No. 2016-25 and the Redevelopment Plan for the Property Commonly known as the White Street Parking Lot Located at 75-79 White Street and Identified on the Borough’s Official Tax Map as Block 31, Lot 2.01.”

Councilman Whelan offered a motion to introduce the ordinance, seconded by Councilman Zipprich.

ROLL CALL:

AYES: Yngstrom, Zipprich, Horgan, Schwabenbauer, Taylor, Whelan

NAYS: None

There being six ayes and no nays, the motion was declared approved.

Public hearing to be held on September 27, 2017 at 6:30 p.m.

Mayor Menna said at this time they would also consider Resolution 17-218 since it was part of the same matter.

#### **RESOLUTION**

17-218 Mayor Menna read, “A Resolution Directing the Placement of “A Resolution Authorizing Continued Discussions with Certain Developers for the Property Commonly known as the White Street Parking Lot Located at 75-79 White Street and Identified on the Borough’s Official Tax Map as Block 31, Lot 2.01” on the September 27, 2017 Council Meeting Agenda.”

Councilman Whelan offered a motion to approve the resolution, seconded by Councilman Yngstrom.

ROLL CALL:

AYES: Yngstrom, Zipprich, Horgan, Schwabenbauer, Taylor, Whelan

NAYS: None

There being six ayes and no nays, the motion was declared approved.

#### **ORDINANCES – Public Hearing and Final Adoption**

2017-29 Mayor Menna read, “An Ordinance Amending and Supplementing Chapter 680, “Vehicles and Traffic,” Section 680-38, “Schedule IV: “Time-Limit Parking.”

Councilman Whelan said the ordinance would add parking spaces on White Street.

Menna opened the public hearing and asked if anyone would like to speak.

No one appearing, Councilman Zipprich offered a motion to close the public hearing, seconded by Councilman Whelan.

ROLL CALL:

AYES: Yngstrom, Zipprich, Horgan, Schwabenbauer, Taylor, Whelan

NAYS: None

There being six ayes and no nays, the motion was declared approved.

Councilman Zipprich offered a motion to adopt the ordinance on final reading, seconded by Councilman Whelan.

ROLL CALL:

AYES: Yngstrom, Zipprich, Horgan, Schwabenbauer, Taylor, Whelan

NAYS: None

There being six ayes and no nays, the motion was declared approved.

2017-30 Mayor Menna read, “An Ordinance Amending and Supplementing Chapter 680, “Vehicles and Traffic,” Section 680-44, “Schedule X: “Loading Zones.”

Menna opened the public hearing and asked if anyone would like to speak.

No one appearing, Councilman Zipprich offered a motion to close the public hearing, seconded by Councilman Whelan.

ROLL CALL:

AYES: Yngstrom, Zipprich, Horgan, Schwabenbauer, Taylor, Whelan

NAYS: None

There being six ayes and no nays, the motion was declared approved.

Councilman Zipprich offered a motion to adopt the ordinance on final reading, seconded by Councilman Whelan.

ROLL CALL:

AYES: Yngstrom, Zipprich, Horgan, Schwabenbauer, Taylor, Whelan

NAYS: None

There being six ayes and no nays, the motion was declared approved.

#### **RESOLUTIONS**

**By Consent Agenda:**

Mayor Menna called for a vote on the following resolutions by Consent Agenda:

- 17-204      A Resolution Authorizing Water/Sewer Refund Due to Overpayment.
- 17-205      A Resolution Authorizing Place-to-Place Expansion of Premises Transfer of Plenary Retail Consumption License No. 1340-33-027-002 (RAL Hospitality Group, Inc. t/a Birravino).
- 17-206      A Resolution Authorizing Person-to-Person Transfer of Plenary Retail Distribution License No. 1340-33-033-010 (Red Enterprises Inc to Red Liquor Enterprises LLC)
- 17-207      A Resolution Honoring John “Ray” Weston on his 50th Anniversary in the Red Bank Volunteer Fire Department.
- 17-208      A Resolution Authorizing the Release of a Performance Guarantee Posted by 116-118 Chestnut Street, LLC and Thomas J. Degnan for Block 63, Lots 8.10 & 10.01 and Block 75.05, Lot 16.01
- 17-209      A Resolution Requesting Approval of Special Item of Revenue and Appropriation According to N.J.S.A. 40A:4-87. (Municipal Court Alcohol Education, Rehabilitation and Enforcement Fund, in the Amount of \$3,184.83)
- 17-210      A Resolution Authorizing the Submission of a Grant Application to the 2017 Monmouth County Open Space Grant Program for the Bellhaven Nature Area Project.

Councilman Zipprich offered a motion to approve the resolutions, seconded by Councilman Whelan.

ROLL CALL:

AYES:            Yngstrom, Zipprich, Horgan, Schwabenbauer, Taylor, Whelan

NAYS:           None

There being six ayes and no nays, the motion was declared approved.

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- 17-211      Mayor Menna read, “A Resolution Rejecting All Bids Received for the River Street Retaining Wall Project and Authorizing the Advertisement and Rebid of the Project with Revised Specifications.”

Councilman Zipprich offered a motion to approve the resolution, seconded by Councilman Yngstrom.

ROLL CALL:

AYES:            Yngstrom, Zipprich, Horgan, Schwabenbauer, Taylor, Whelan

NAYS:           None

There being six ayes and no nays, the motion was declared approved.

- 17-212      Mayor Menna read, “A Resolution Accepting Bids and Awarding Contract for the 2017 Red Bank Road Program..”

Councilman Zipprich offered a motion to approve the resolution, seconded by Councilman Taylor.

ROLL CALL:

AYES:            Yngstrom, Zipprich, Horgan, Schwabenbauer, Taylor, Whelan

NAYS:           None

There being six ayes and no nays, the motion was declared approved.

- 17-213      Mayor Menna read, “A Resolution Authorizing Tax Appeal Settlement Regarding 55 Broad Street, Red Bank, LLC, 55 Broad Street, Block 29, Lot 28, Red Bank, New Jersey (\$13,686.18).”

Councilman Taylor offered a motion to approve the resolution, seconded by Councilwoman Schwabenbauer.

ROLL CALL:

AYES:            Yngstrom, Zipprich, Horgan, Schwabenbauer, Taylor, Whelan

NAYS:           None

There being six ayes and no nays, the motion was declared approved.

- 17-214      Mayor Menna read, “A Resolution Appointing Per Diem Part-Time Dispatcher.”

Councilman Whelan offered a motion to approve the resolution, seconded by Councilman Zipprich.

ROLL CALL:

AYES:            Yngstrom, Zipprich, Horgan, Schwabenbauer, Taylor, Whelan

NAYS:           None

There being six ayes and no nays, the motion was declared approved.

- 17-215      Mayor Menna read, “A Resolution to Approve the Hiring of Custodian/Part Time Bus Driver (Senior Center).”

Councilman Yngstrom offered a motion to approve the resolution, seconded by Councilman Zipprich.

ROLL CALL:

AYES: Yngstrom, Zipprich, Horgan, Schwabenbauer, Taylor, Whelan

NAYS: None

There being six ayes and no nays, the motion was declared approved.

17-216 Mayor Menna read, “A Resolution to Approve the Hiring of Public Works Worker and Public Works Custodian.”

Councilman Zipprich offered a motion to approve the resolution, seconded by Councilman Taylor.

ROLL CALL:

AYES: Yngstrom, Zipprich, Horgan, Schwabenbauer, Taylor, Whelan

NAYS: None

There being six ayes and no nays, the motion was declared approved.

17-217 Mayor Menna read, “A Resolution to Approve Hiring of Permanent Part Time Library Assistant.”

Councilwoman Horgan offered a motion to approve the resolution, seconded by Councilman Zipprich.

Councilman Taylor asked if the individual being hired would be able to assist with setting up and tearing down for library events to avoid bringing in staff from DPW which was short-handed. He said whoever was hired should be able to assist in those functions.

Mr. Sickels said the employee being hired had previously worked for the library and was coming back on an hourly basis.

Mayor Menna said a letter detailing the reasons for the hire had been forwarded to the Council and asked if he had received it.

Councilman Taylor said he had but it did not answer the question of whether or not the library could handle some of their own responsibilities.

Councilwoman Horgan said they were always trying to address it and suggested DPW needed more money in its budget to hire people.

Councilman Taylor said the things he was talking about wouldn't be the responsibility of DPW but would be the responsibility of the library. He said they could have that discussion at a later time.

ROLL CALL:

AYES: Yngstrom, Zipprich, Horgan, Schwabenbauer, Taylor, Whelan

NAYS: None

There being six ayes and no nays, the motion was declared approved.

## **PROCLAMATIONS**

None.

## **PAYMENT OF VOUCHERS**

17-203 Mayor Menna read, “A Resolution for Payment of Bills Amounting to \$1,915,596.36.”

Councilwoman Schwabenbauer offered a motion to approve the resolution, seconded by Councilman Whelan.

ROLL CALL:

AYES: Yngstrom, Zipprich, Horgan, Schwabenbauer, Taylor, Whelan

NAYS: None

There being six ayes and no nays, the motion was declared approved.

## **OLD BUSINESS**

## **NEW BUSINESS**

## **AUDIENCE**

Cindy Burnham—71 Wallace Street—commended Parking Supervisor Bill Wilk for this efforts. She reviewed specifics of what she had seen

Mayor Menna thanked her for her comments and noted other residents that had contacted him.

Freddie Boynton—PO Box 2074, Red Bank—Asked if a CDL was required for the position at the Senior Center.

Mr. Sickels said it was.

Mr. Boynton said it did not say that anywhere. He also said he would like to speak to Mayor Menna, Administrator Sickels, DPW Director Keen and Chief McConnell after the meeting.

Mayor Menna said he would be happy to speak with him.

Mr. Boynton said he also wanted to thank the Animal Control Officer for his assistance with two recent issues involving pit bulls.

Mayor Menna said ACO Perez was an extraordinarily dedicated and devoted man.

Jimmy Dark—48 Sunset Avenue—said he wanted to thank Freddie Boynton for reaching out to the Freeholders regarding the crosswalks on Shrewsbury Avenue.

Mayor Menna said the Borough would be looking into installing receptacles for animal waste. He said a way they could do it without spending any money would be to authorize local business to sponsor one in exchange for a promotional ad on the equipment.

Councilman Zipprich asked that the equipment be delivered and installed.

Kate Triggiano—22 Leighton Avenue—said the matter that the Mayor had just addressed was an initiative that the Environmental Commission had been working on for quite some time and would help the Borough obtain Sustainable Jersey points. She said several businesses in town had already said they would like to participate.

Suzanne Viscomi—Cedar Avenue—asked if the next Council meeting and the discussion that was to follow could be held in one location. She said she understood the meeting would need to be recorded. She said she knew the Primary School had microphones but wasn't sure if they had the ability to record. She offered to record the meeting.

Councilman Whelan apologized for neglecting to mention the matter in his committee report. He said he had suggested having the Council meeting at the Primary School to keep everything in one location. He said he understood there could be issues with recording so there would probably be a 15 to 20 minute break that would allow people to get to the other location. He said the main issue was the recording.

Councilman Zipprich asked Ms. Viscomi if the School Board had recording equipment for the Board of Education meetings.

Ms. Viscomi said the Board does not record their meetings.

Attorney Cannon said the issue was the Borough would have to rent equipment and spend time to test it to ensure it would record properly. He added that the rental fees were expensive. He said the answer was the Council meeting should be held in the Council Chambers and people could move to the second location after the meeting was over.

**EXECUTIVE SESSION**

17-219 Mayor Menna read a resolution to adjourn to executive session to discuss personnel, contract negotiation and litigation; it was anticipated that no action would be taken.

Councilman Whelan offered a motion to adjourn to executive session, seconded by Councilman Zipprich.

ROLL CALL:

AYES: Yngstrom, Zipprich, Horgan, Schwabenbauer, Taylor, Whelan

NAYS: None

There being six ayes and no nays, the motion was declared approved.

Councilman Taylor offered a motion to adjourn from executive session, seconded by Councilman Whelan.

ROLL CALL:

AYES: Yngstrom, Zipprich, Horgan, Schwabenbauer, Taylor, Whelan

NAYS: None

There being six ayes and no nays, the motion was declared approved.

**ADJOURNMENT**

Councilman Taylor offered a motion to adjourn the meeting, seconded by Councilman Whelan.

ROLL CALL:

AYES: Yngstrom, Zipprich, Horgan, Schwabenbauer, Taylor, Whelan

NAYS: None

There being six ayes and no nays, the motion was declared approved.

Respectfully submitted,  
Pamela Borghi