

**MINUTES  
REGULAR MEETING  
MUNICIPAL COUNCIL – BOROUGH OF RED BANK  
AUGUST 26, 2015  
6:30 P.M.**

**PLEDGE OF ALLEGIANCE**

**ROLL CALL**

PRESENT: Mayor Menna and Council Members Burnham, Horgan, Schwabenbauer, Zipprich and DuPont

ALSO PRESENT: Administrator Sickels, Borough Clerk Borghi, Chief Financial Officer Poulos, Attorney Byrnes and Engineer Ballard.

ABSENT: Attorney O’Hern.

**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 4, 2015.

Mayor Menna announced that there would be no discussion or action taken by the Council regarding the Marine Park Redevelopment proposals as they were still waiting for a report from the committee. He said there would be notification when it was on an agenda.

**SUSPEND REGULAR ORDER OF BUSINESS**

Councilman Zipprich offered a motion to suspend the regular order of business, seconded by Councilman DuPont.

**ROLL CALL:**

AYES: Burnham, Horgan, Schwabenbauer, Zipprich, DuPont

NAYS: None

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

**Presentation by Project Write Now**

Mayor Menna said Library Director Elizabeth McDermott had been instrumental in the partnering with a number of institutions include the homegrown project known as Project Write Now. He noted he had been interviewed as part of the project and introduced Jennifer Chauhan of Project Write Now.

Ms. Chauhan said the group had been working with Middle School students and reviewed the project. She said they found the library was working on a similar project and reached out to partner with them. She introduced Dylan van Sickle who spoke of interviewing Mayor Menna and his experience with the project. Ms. Chauhan introduced Development Director Suzanne Richter who thanked the Mayor and Council and asked for support of their current fund raising campaign for their Back-to-School program.

Mayor Menna called on Carl Colmorgen who reviewed his experience as an interviewee.

Both Councilwoman Burnham and Councilman Zipprich asked how they could assist and support the organization.

Ms. Chauhan said they were looking for help to spread the word about the program and reviewed future events including a proposed literary festival. Ms. Richter said they were looking for endorsements. Ms. Chauhan said they had a Facebook page and encouraged Councilmembers to sign up for their newsletter through their website. She said they were currently raising money to fund a professional space for an after school program.

Councilwoman Horgan asked if they currently had a space.

Ms. Chauhan said they had a space next to the Two River Theater but said they were looking to build a larger space.

Councilwoman Horgan spoke of the importance of learning how to write.

Ms. Chauhan reviewed the positive response from students and the success of the program.

Councilwoman Burnham asked Ms. Chauhan if, when she said “write,” she was referring to script or printing.

Ms. Chauhan said they give everyone a notebook and encourage them to free write, doodle or draw. She said they were not necessarily working with cursive. She reviewed the writing process and said she was looking to publish an anthology.

Mayor Menna spoke of his experience with the program.

Councilman Zipprich invited the group to speak to the Red Bank Borough Education Foundation.

**RESUME REGULAR ORDER OF BUSINESS**

Councilman DuPont offered a motion to resume the regular order of business, seconded by Councilman Zipprich.

**ROLL CALL:**

AYES:        Burnham, Horgan, Schwabenbauer, Zipprich, DuPont

NAYS:        None

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

**WORKSHOP**

Amendment to resolution authorizing award of Solid Waste Bid—Mayor Menna noted there was a minor amendment that need to be done to the language of the resolution having nothing to do with the bid itself. He said it would be added at the end of the agenda.

Resolution in Support of a Proposed Bill to Prohibit the Transport of any Priority/Endangered Species—Mayor Menna said the bill had been proposed by Assemblyman Eustace from Bergen County in response to the callous disregard for endangered species. He said it would also be added to the agenda.

Council President—Councilman DuPont said there was a need to fill the vacancy of Council President left by the resignation of Councilman Murphy. He recommended the appointment of Councilwoman Horgan. Mayor Menna said he would welcome the appointment and said a resolution would be added.

**APPROVAL OF MINUTES – August 12, 2015**

Councilman DuPont offered a motion to approve the minutes, seconded by Councilwoman Schwabenbauer.

**ROLL CALL:**

AYES:        Burnham, Horgan, Schwabenbauer, Zipprich, DuPont

NAYS:        None

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

**APPROVAL OF MINUTES – August 17, 2015**

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

**ROLL CALL:**

AYES:        Burnham, Horgan, Schwabenbauer, Zipprich, DuPont

NAYS:        None

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

**MAYORAL APPOINTMENTS**

None.

**REPORTS OF MAYOR AND COUNCIL MEMBERS**

Councilman DuPont had no report.

Councilman Zipprich reported that the Historic Preservation Commission would be holding an awards presentation on September 15 to recognize the preservation efforts of residents, professionals, businesses and civic/social organizations. He said details would follow. He noted that the Department of Public Utilities Sanitation Division would transition to private carting on September 1. He said a notice had been prepared and would be on the website. He stressed that there would be no change to scheduled collections. He also reported that the Shade Tree Committee was reminding neighbors to help water street trees.

Councilwoman Schwabenbauer said the Parks and Recreation Department was wrapping up a successful season of Jazz in the Park and Movies in the Park. She said Fall Soccer registration was underway. She also noted that she and her dog had enjoyed the most recent Dog Days of Summer event.

Councilwoman Horgan said the Education/Technology Committee had met on August 18 and said they were continuing to see savings and improvements on infrastructure and software. She said the Director has been auditing the Verizon Wireless bill which would result in savings of \$500 per month and reviewed details of changes that had been made. She said they were in negotiations with Atlantic Highlands to discuss shared IT services. She gave an example of a recent case where a virus had infected computers in Borough Hall and said the problem had been dealt with within an hour where previously it would have taken much longer because there was no one on site. She said the creation of the position had been a cost effective and efficient. She also reported that the Library Board had met on August 20 and said they had amended their by-laws to change their meeting schedule to meet every other month. She also reported that September was Library Card month. She said they would also be distributing a survey to the Red Bank community regarding what they think of the Library and what they would like to see in the future. She said the results would be used for long range planning. She also noted there was a presentation at the Library that evening called “Let’s Talk about Race.” She said it was going to be a series of discussions about race, cultural identity and class in the context of literary works led by Gilda Rogers. She said she also wanted to acknowledge RiverCenter noting that the organization had been credited by New

Jersey Monthly magazine as helping Red Bank rank second in the Top Ten Towns to do Business in New Jersey. She also noted that this was Women's Equality Day which marked the passage of the 19<sup>th</sup> Amendment which gave women the right to vote.

Councilwoman Burnham reported that they would be welcoming a new Director in Planning and Zoning on September 1. She said there had been complaints regarding the Walgreen's project in regarding to the residential side of the property.

Mayor Menna said he was aware of it and said it would be dealt with through the code process and noted there was a bond in place to ensure it was done correctly.

Administrator Sickels said he had dealt with the complaints from the residents and had spoken to the Engineer. He said the burden was on the Developer to comply with all of the conditions of approval. He said not final Certificate of Occupancy would be issued until the matter was resolved.

Mayor Menna said he also wanted to remark on the national recognition received for the Borough's downtown and agreed that RiverCenter was the catalyst in business enhancement. He said other individuals should also be acknowledged including the Borough staff who assist people through the process of opening a business. He said it was a pro-business climate but said it did not start and end with RiverCenter. He said it was not just business but said the article also focused on quality of life such as education and safety issues. He said they had to continue to compete and called for more and better housing stock.

Councilwoman Horgan agreed that it was a collaboration but wanted to give credit to RiverCenter.

Mayor Menna noted that it was also National Dog Day and reported that the final 2015 Dog Days of Red Bank event would be held on September 1 with a "Farewell to Summer" theme.

## **COMMUNICATIONS AND PETITIONS**

Mayor Menna read a request from Doc Shoppe, 43 Broad Street, to have a tent sale from 10 am to 7 pm on Saturday, August 29, 2015.

Councilman DuPont said he felt they needed to promote the Borough's retailers.

Councilwoman Burnham said there had been some incidents with other retailers following a previous approval for the Doc Shoppe being permitted to have a table. She asked Keith Glass, one of the owners of the shop, if he would agree to forego the table approval if they approved the one day tent sale.

Mr. Glass said he could not agree to that.

Councilman DuPont offered a motion to approve the request, seconded by Councilwoman Schwabenbauer.

### **ROLL CALL:**

AYES:        Burnham, Horgan, Schwabenbauer, Zipprich, DuPont

NAYS:        None

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

Mayor Menna read a request from Sempre Cannoli to amend the dates of approval for their Grand Opening sign to August 30<sup>th</sup> to September 13th due to delays in their opening date.

Councilman DuPont offered a motion to approve the request, seconded by Councilman Zipprich.

### **ROLL CALL:**

AYES:        Burnham, Horgan, Schwabenbauer, Zipprich, DuPont

NAYS:        None

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

Mayor Menna read a request from Red Bank Elks Lodge #233 to use Riverside Gardens Park for a 9-11 Remembrance Ceremony on Friday, September 11th, 2015 from 5pm to 8pm.

Councilman Zipprich offered a motion to approve the request, seconded by Councilman DuPont.

### **ROLL CALL:**

AYES:        Burnham, Horgan, Schwabenbauer, Zipprich, DuPont

NAYS:        None

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

Mayor Menna read a request from RiverCenter to place sidewalk stickers throughout town from Friday, September 18, 2015 through Friday, October 16, 2015 to help market their annual Girls' Night Out event.

Councilwoman Burnham said she had a concern about stickers. RiverCenter Director James Scavone said they were not really stickers but were sidewalk decal that would come up clean with no residue. He said they had previously been used for the Wedding Walk.

Councilman DuPont offered a motion to approve the request, seconded by Councilman Zipprich.

**ROLL CALL:**

AYES:            Burnham, Horgan, Schwabenbauer, Zipprich, DuPont

NAYS:            None

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

**PUBLIC COMMENT—Ordinances on First Reading and Resolutions Only**

Mayor Menna opened the public comment portion of the meeting.

Paul Cagno—65 Wallace Street—asked about resolution 15-221 to grant relief to Locust Landing from the terms of their PILOT agreement and asked what the dollar amount would be.

CFO Poulos said it was approximately \$15,000.

He questioned the loss of revenue and asked they would consider granting relief to a private developer.

Administrator Sickels noted that the property was low income housing with fixed rent. He also noted it was one of the few buildings in the Borough that had been subject to flood damage in Hurricane Sandy. He said approximately 16 units had been unoccupied for about a year and said they had been unable to collect revenue during that time.

Mr. Cagno again noted it was a private corporation and said the Borough should not be in the business of granting relief to private corporations. He said if it was a non-profit he could understand.

Mr. Sickels said it was a tax-exempt property that did not have to pay anything and explained that a PILOT was an agreement for payment in lieu of taxes. He said the agreement was influenced by the damage and loss of rent due to the hurricane.

Mr. Cagno said he was aware of a letter that had been sent to Borough Attorney O’Hern and questioned granting relief year after year to a private developer. He noted that the State had received billions of dollars in relief and questioned why the Borough should provide relief.

Suzanne Viscomi—19 Morford Place—asked if Locust Landing had not been granted relief before.

Councilwoman Burnham said they had.

CFO Poulos reviewed the terms of the agreement. She said the proposed agreement was exactly the same as last year.

Ms. Viscomi asked if other residents would have an opportunity to have their late fees or interest waved if they were also late due to Sandy.

Ms. Poulos said the agreement had been made because of that fact that it was low income housing.

Ms. Viscomi noted there were several low income families that were struggling after Sandy that should have the same benefit.

Mr. Sickels said the property was the only residence that was flooded as a result of Sandy. He said the only other way for them to recoup the loss would be to charge the residents but noted that was not possible because of the fixed rents.

Mayor Menna clarified that the units were part of the Mt. Laurel Affordable Housing program. He said all of the units were low or moderate income housing and were established to accomplish the Borough’s requirements under the Mt. Laurel case. He said, while it was a corporation in the legal sense, it was restricted to tenants that did not have the ability to pay at the same level that other taxpayers did. He noted that the Affordable Housing component was also part of the Borough’s Housing Plan.

Mr. Cagno said he did not understand and said there was nothing in the Mt. Laurel decision that said the Borough was obligated to give tax breaks.

Mayor Menna said his point was that they were limited in what they could pay.

Mr. Cagno said the owners of the property were investors that were making money. He said he didn’t think they would walk away from the project if they did not get relief. He asked why the Borough would not collect the money.

Bill Meyer—12 Monmouth Street—said his concern was that the premise of the hardship was that the property was under insured. He suggested the Borough verify that and also questioned the loss of income report noting that it should have been covered under insurance.

Mayor Menna said that was a good point.

Councilman DuPont suggested they verify with the Tax Assessor to see if they had filed a Tax Court complaint or if the Borough could get copies of paperwork. He suggested the table the resolution subject to getting information from the Tax Assessor.

15-221            A Resolution Granting Request of Locust Landing Urban Renewal for Temporary Relief from Terms of PILOT Agreement regarding Credits for Payment of Land Taxes.

Councilman DuPont made a motion to table the resolution, seconded by Councilman Zipprich.

**ROLL CALL:**

AYES:            Burnham, Horgan, Schwabenbauer, Zipprich, DuPont

NAYS:            None

There being five ayes and no nays, the motion was declared approved and the resolution tabled.

Sean DiSomma—35 West Street—asked if ordinance 2015-26 would call for raising fees.

Mayor Menna said the ordinance only addressed new connections and said the fees were set by statute.

Councilman Zipprich said the fees were actually going down.

Mayor Menna said the ordinance included rates were based on a statutory formula and said it had been prepared by the Auditor.

Mark Taylor—159 Bridge Avenue—asked about ordinances 2015-21, 2015-22 and 2015-23. He said 2015-22 and 2015-23 appeared to be identical and asked for clarification.

Mayor Menna explained the Ordinance 2015-23 was for a guarantee on the bond. He said it was for the same items but said a separate ordinance had to be done pursuant to Bond Counsel.

Mr. Taylor questioned the amount of money that was listed for the items included in 2015-21.

Mayor Menna said ordinances 2015-21 and 2015-22 would authorize an application up to and including those amounts of money. However, he continued, the list of items may be changed as long as the amount was not exceeded. He said it was like a line of credit where they could go up to that amount but not exceed.

Mr. Taylor said he was concerned because the list of items totaled approximately \$800,000 but the authority was almost double that.

Administrator Sickels explained that the ordinance represented two years of capital equipment purchasing.

Mayor Menna clarified that it was possible purchasing.

Mr. Sickels said the list represented Department requests for equipment and said he had been tasked by the Council and Finance Committee to review the requests which he said were originally double that amount. He said they had met with Department Heads and reduced the list by almost half to the present number. He reviewed the criteria that was used.

Mr. Taylor questioned the cost of tablet computers that were on the list.

Mr. Sickels noted that the cost quoted included more than the actual tablet but also included items such as software, etc. He said they also chose an amount to ensure the cost would be covered and acknowledged it could come in less. He again noted it was a two year budget.

Mr. Taylor said he felt they would spend the money because they had the approval.

Mr. Sickels reviewed the process which started with the ordinance which was an authorization not to exceed. He said when the purchase was made, it would be through State contract or bid in order to get the best price. He said it would then come back to the Council for approval of the actual purchase.

Mr. Taylor said he felt it was a lack of transparency that they were approving it now but would be purchasing down the road when they found out the actual cost.

Mayor Menna said the actual purchase would be approved by a separate resolution.

Mr. Taylor also questioned why a line for software and servers noted that the total amount was \$100,000 with \$30,000 coming from other Borough funds. He asked why the amount wouldn't then be listed at \$70,000.

Mr. Sickels said he thought the cost may have originally been \$130,000. He also noted that when they went through the list, they found that some of the items had been funded through previous ordinances.

Mr. Taylor said that was his point. He criticized how the money was being spent.

Michael Whelan—69 Maple Avenue—said he wanted to reiterate Mr. Meyers comments. He agreed that the building should have been covered by insurance for 80 percent of the total value. He said before the Council made a decision, they should ask for the policy to see how much they received.

No one else appearing, Councilman DuPont made a motion to close the public comment, seconded by Councilman Zipprich.

**ROLL CALL:**

AYES:            Burnham, Horgan, Schwabenbauer, Zipprich, DuPont

NAYS:            None

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

**ORDINANCES – First Reading**

2015-26 Mayor Menna read “An Ordinance of the Borough of Red Bank, Monmouth County Amending Chapter XX “Water and Sewer”, Section 20-8 “Sewer Connection Fees” and Section 20-9 “Water Connection Fees.”

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

**ROLL CALL:**

AYES: Burnham, Horgan, Schwabenbauer, Zipprich, DuPont

NAYS: None

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

Public hearing and final adoption scheduled for September 9, 2015.

**ORDINANCES – Public Hearing and Final Adoption**

2015-21 Mayor Menna read “An Ordinance Authorizing the Leasing of Certain Capital Equipment by the Borough of Red Bank, New Jersey from the Monmouth County Improvement Authority and the Execution of a Lease and Agreement Relating Thereto. (Miscellaneous Equipment - \$795,250)”

Mayor Menna opened the public hearing.

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

**ROLL CALL:**

AYES: Burnham, Horgan, Schwabenbauer, Zipprich, DuPont

NAYS: None

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

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

**ROLL CALL:**

AYES: Horgan, Schwabenbauer, Zipprich, DuPont

NAYS: Burnham

There being four ayes and one nay, the motion was declared approved.

2015-22 Mayor Menna read “An Ordinance Authorizing the Leasing of Certain Capital Equipment by the Borough of Red Bank, New Jersey from the Monmouth County Improvement Authority and the Execution of a Lease and Agreement Relating Thereto. (Police Vehicles - \$190,000)”

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

**ROLL CALL:**

AYES: Burnham, Horgan, Schwabenbauer, Zipprich, DuPont

NAYS: None

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

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

**ROLL CALL:**

AYES: Horgan, Schwabenbauer, Zipprich, DuPont

NAYS: Burnham

There being four ayes and one nay, the motion was declared approved.

2015-23 Mayor Menna read “An Ordinance Authorizing the Guaranty by the Borough of Red Bank, New Jersey for Payment of Principal Interest on Capital Equipment Lease Revenue Bonds, Series 2015 (Red Bank Project) of the Monmouth County Improvement Authority.”

Mayor Menna opened the public hearing.

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

**ROLL CALL:**

AYES: Burnham, Horgan, Schwabenbauer, Zipprich, DuPont

NAYS: None

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

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

**ROLL CALL:**

AYES:            Burnham, Horgan, Schwabenbauer, Zipprich, DuPont

NAYS:            None

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

**RESOLUTIONS**

By Consent Agenda

- 15-212 A Resolution Confirming Appointment of Treasurer/Chief Financial Officer
- 15-213 A Resolution Confirming Appointment of Building Sub-Code Official
- 15-214 A Resolution Authorizing Imposition of a Lien on Block 90, Lot 12, 183 Drs. James Parker Blvd. for Property Maintenance Expenses.
- 15-215 A Resolution Authorizing Tax Credits/Refunds Totaling \$44,347.07 due to Judgments of the Tax Court of New Jersey
- 15-216 A Resolution Authorizing the Execution and Entry into a Developer's Agreement between Home and Land Development Corp. and the Borough of Red Bank. (formerly RW @ River's Edge)
- 15-217 A Resolution Authorizing Acceptance of Performance Guarantee regarding Home and Land Development Corp. (Formerly RW @ River's Edge)
- 15-218 A Resolution Authorizing the Borough Engineer and Administrator to Submit a Letter of Intent to the New Jersey Environmental Infrastructure Trust
- 15-219 A Resolution to Approve the Hiring of Temporary Part Time Planning/Zoning Secretary.

Councilwoman Burnham asked if Resolutions 15-216 and 15-217 were regarding a condo project being built at the end of Bank Street.

Mayor Menna said it was regarding a project on Bank Street that was approved many years ago but it had not moved forward.

Councilwoman Burnham also asked Administrator Sickels to explain Resolution 15-218 and asked if it had to do with a well.

Mr. Sickels said it was and clarified that the Resolution would authorize the Borough Engineer to submit a letter of intent to request funding through the New Jersey Environmental Infrastructure Trust for the proposed new well. He said it was not a binding agreement and said the Borough could back out down the road if it was determined that it was not financially feasible. He said they had to file the letter of intent in order to be in the queue for funding.

Councilwoman Burnham asked if this was needed to comply with the Department of Environmental Protection.

Mr. Sickels said it was and noted that it was for funding for the back up well.

Councilwoman Burnham noted they could not approve any more development without installing the well.

Mr. Sickels clarified that the Borough the capacity to provide service to the developments but said the DEP required them to have a backup if they lost the largest well.

Councilman Zipprich confirmed that this would address the firm capacity issue.

Councilwoman Burnham asked if Red Bank had the right to approve more developments without a letter from the DEP that said they could go ahead.

Mr. Sickels said, in separate issue, they had meetings with the DEP to allow them to go forward with a Memorandum of Agreement that stated they were in the process of addressing the firm capacity issue and that they would consider additional connections for development. He added it would not guarantee approval. He said they were in agreement that there should be a backup well and said it was good policy. He noted it would take time to get the funding in place and that was what this resolution was doing.

Councilwoman Burnham asked if the Borough was going to go ahead and approve additional developments particularly the one on Front Street.

Mayor Menna said he wanted to note that "so-called" development on Front Street was not before the Council. He said the project was already approved as part of the Borough's DEP water allocation amount under 27 units.

Councilwoman Burnham said 27 units were approved but now they wanted 37.

Mayor Menna said that was up to the Board to decide. He said the matter was not up for discussion because it was an autonomous Board.

Councilman DuPont offered a motion to approve the resolutions en masse, seconded by Councilman Zipprich.

**ROLL CALL:**

AYES: Burnham, Horgan, Schwabenbauer, Zipprich, DuPont

NAYS: None

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

15-220 Mayor Menna read “A Resolution Granting Request for Fee Waiver and Authorizing Refund of Zoning Application Fee.”

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

**ROLL CALL:**

AYES: Burnham, Horgan, Schwabenbauer, Zipprich, DuPont

NAYS: None

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

15-221 Mayor Menna read “A Resolution Granting Request of Locust Landing Urban Renewal for Temporary Relief from Terms of PILOT Agreement regarding Credits for Payment of Land Taxes.”

Councilman DuPont offered a motion to table the resolution, seconded by Councilwoman Burnham.

**ROLL CALL:**

AYES: Burnham, Horgan, Schwabenbauer, Zipprich, DuPont

NAYS: None

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

15-222 A Resolution in Support of New Jersey Assembly Bill Submitted by Assemblyman Dr. Timothy Eustace to Revise Title 32 and Prohibit the Import, Export, Shipment, Receipt, Possession or Transport through the Port Authority of New York and New Jersey Facilities of Certain Endangered Animals and Parts Thereof.

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

**ROLL CALL:**

AYES: Burnham, Horgan, Schwabenbauer, Zipprich, DuPont

NAYS: None

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

15-223 A Resolution Accepting Bid from and Awarding Contract to Delisa Demolition, Inc. for Solid Waste and Recycling Collection Contract. (Revised)

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

**ROLL CALL:**

AYES: Burnham, Horgan, Schwabenbauer, Zipprich, DuPont

NAYS: None

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

15-224 A Resolution Electing Council President for 2015.

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

**ROLL CALL:**

AYES: Burnham, Horgan, Schwabenbauer, Zipprich, DuPont

NAYS: None

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

**PROCLAMATIONS – None.**

**PAYMENT OF VOUCHERS**

15-210 Mayor Menna read, “A Resolution for Payment of Bills Amounting to \$4,162,925.12.”

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

**ROLL CALL:**

AYES: Burnham, Horgan, Schwabenbauer, Zipprich, DuPont

NAYS: None

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

## **OLD BUSINESS**

### **NEW BUSINESS**

Councilwoman Burnham said Riverview Hospital had purchased two properties along the river that had been ratables and would now be non-profits. She had also purchased the nursing home on Chapin Avenue which was also waterfront.

Mr. Sickels said they had not purchased the nursing home.

Councilwoman Burnham asked if they were in negotiation.

Mr. Sickels said the hospital would be taking over management but said it would still be owned by the current owner.

Councilwoman Burnham expressed concern about the two properties they were buying and noted the Borough had a PILOT agreement with the organization.

Mayor Menna noted the Council had had the discussion in Executive Session.

Councilwoman Burnham said they Borough needed to re-negotiate the PILOT.

Mayor Menna said he wanted to respectfully remind the Councilwoman that the Council had had a discussion in Executive Session that dealt with negotiations as well as legal matters involving a tax court decision. He said any discussion of that would be premature because the Borough Attorney, the Assessor as well as the Borough Special Consultant on the issue had already been instructed to look at the matter. He said it was a very complicated legal issue that the Council could not discuss right now.

Councilman Zipprich asked Mayor Menna if the lawyers would deal with that issue.

Mayor Menna said they were already dealing with it and said it was not just a Red Bank issue but was an important legal issue that was facing not just municipalities with hospitals but other not for profits that were hybrid type uses with a charitable component but also a for profit component. He again said it was a very complicated legal issue that the Council spent about a half hour talking about in Executive Session at the last meeting.

Councilwoman Burnham asked for an update on the Library bulkhead.

Engineer Ballard said they had most of the permits and had just gotten the check for the Tidelands License so the project would be moving forward and going out to bid very soon. She said they had been waiting for the Tidelands License.

Councilwoman Burnham asked about the access road to the Primary School.

Engineer Ballard said the design was not complete and said they had been meeting with the DEP on the project going back and forth on what permits were required and what design features the DEP wanted. She said she thought they had firmed up those items and could proceed with design which she said was about 35 percent complete because they were waiting for guidance from the DEP.

Councilwoman Burnham asked if she was saying the road would not be in this year.

Engineer Ballard said it would not and noted that the plan was not for it to be completed this year. She said they had hoped to have it started by the end of the year but not completed until spring.

## **AUDIENCE**

Sean DiSomma—35 West Street—said everyone should be happy that Red Bank named in the study mentioned earlier but noted that it had been reported that day that Prowns, a company that had been in Red Bank for 90 years, was leaving. He noted that the owner of the business had been to a Council meeting to talk about parking meters and insinuate that might be the cause.

Mayor Menna noted that the business had a parking lot available.

Mr. DiSomma noted that some large businesses in Red Bank were included in the study reported on earlier including Hovnanian which he claimed had a profit in 2014 of \$500-\$600 million. He named other large companies with large profits and said it wasn't the little shoe stores making the large profits.

Mayor Menna questioned if Hovnanian had reported a profit. Mayor Menna said he believed they had reported a loss.

Mr. DiSomma said they had showed a profit in 2014. He also asked about the backup well and asked what the cost for the well would be.

Mayor Menna said the Engineer was working on it.

Mr. DiSomma asked for a range.

Engineer Ballard estimated \$1 million.

Mr. DiSomma called for a cost benefit analysis to see if the water utility should be sold.

Mayor Menna said those were good discussion topics and said all options would be considered from a financial standpoint. He said the analysis would also encompass other financing options available to them. He said they were not at the point where they had to make a decision but based on the DEP regulations they would have to consider it soon. He said such an analysis could be done.

Mr. DiSomma said he felt it should have been done three years ago. He said he had done quite a bit of research on the matter. He said Councilwoman Burnham had delivered a letter to the Council that she had gotten from the DEP.

Councilwoman Burnham said she had gotten the letter from someone in Fair Haven.

Mr. DiSomma said the letter had said the Borough needed more capacity. He asked when exactly the Borough had heard from the DEP that there was inadequate firm capacity and what was the official notification.

Administrator Sickels said he believed the letter was dated February 18, 2015 advising that the firm capacity was deficient. He said at first they said it was because of flow calculations but noted there had been errors in their reporting data. He said they corrected those errors and afterward said they still felt the Borough was deficient. He said the Borough has three wells but there was no backup for the largest well which they required. He said it was a backup requirement and noted the Borough had plenty of allocation and could produce the water it needed.

Mr. DiSomma asked how long the letter stated that the Borough had been without a firm guarantee from New Jersey American Water.

Mr. Sickels noted that, in the past, the Borough had relied on New Jersey American for backup. He said, this year, the company's legal team would not let them offer a guarantee. He said they said they could still supply water but couldn't offer a guarantee. He said without that arrangement, the Borough fell out of firm capacity and the DEP had said without the arrangement, the Borough was required to have a backup well.

Mr. DiSomma asked when that official agreement had expired and asked if it had been in 2012.

Mr. Sickels said it had been renewed in 2012.

Mr. DiSomma said it was not renewed in 2012.

Mr. Sickels disagreed and said they had guaranteed a million gallons. He said, in April of this year, they had said they would provide water in an emergency but could not guarantee an amount.

Mr. DiSomma asked if the fact that the calculations were incorrect was the reason why the letter was not distributed to the Council.

Mr. Sickels said before he raised the alarm, he wanted to verify if it was an error. He said once they learned the information was erroneous, it was corrected and he then notified the Council of the issue when he had the final numbers.

Mr. DiSomma asked when the Borough had received the letter confirming the calculations had been incorrect.

Mr. Sickels said he did not know off the top of his head.

Mr. DiSomma asked if it had been this year.

Mr. Sickels said it was.

Mr. DiSomma asked if the comment regarding ample capacity referred to the day to day water supply or to the emergency capacity.

Mr. Sickels said it was the emergency capacity.

Mr. DiSomma asked if additional guaranteed water capacity from New Jersey American Water included in the revised calculation.

Mr. Sickels said it was not. He said it they had included the number they would not have been in non-compliance.

Mr. DiSomma asked how long the Borough had been in non-compliance.

Councilwoman Burnham said since 2005.

Mr. Sickels disagreed and said the Borough had been in non-compliance since being notified by New Jersey American Water this year that they could not guarantee the million gallons.

Mr. DiSomma said the Borough was currently in non-compliance so the Borough could not build anything. He said theoretically, if a disaster happened, Red Bank residents would not have a guarantee of having water.

Mayor Menna said that was not correct. He said there were DEP and BPU regulations that addressed that issue in the event of any emergency for any municipality.

Mr. Sickels noted that New Jersey American Water has said the Borough can get the water at any time, they just couldn't guarantee a number. Also, he continued, in the firm capacity, they do not count the 1.2 million gallons

sitting on the hill. He said it was all about production. He also noted that, in the 19 years that he had been Administrator, the only water emergency was when they had had a broken line and Borough had to help them.

Mr. DiSomma said even though there was 1.2 million gallons on the hill, the DEP didn't count it so the Borough was in non-compliance. He said the regulations were in place to ensure that the Borough had enough water.

Mr. Sickels said the requirement was to provide in case the main well didn't function and noted there were two other wells.

Mr. DiSomma said, if all the wells did not function, the Borough currently did not have a guarantee. He said the Borough had not been in compliance since February.

Mr. Sickels said the requirement was not to back up all of the wells. He said they were required to provide for the possibility that the largest well went out and they must have a backup well.

Mr. DiSommas asked if the Borough had that.

Mr. Sickels said they did not.

Mr. DiSomma said that meant the Borough was not in compliance.

Mr. Sickels said that was correct as of the date that New Jersey American Water they would not guarantee a million gallons.

Mr. DiSomma asked what the purpose of that DEP regulation was.

Mr. Sickels said it was for redundancy.

Mr. DiSomma said it was too ensure that residents were not stuck in an emergency without water. He said the Borough was currently violating a DEP regulation.

Mayor Menna said this was not a cross examination and said he felt the Administrator had answered the questions to the best of his knowledge. He said he was repeating the same questions and said they had been answered.

Carl Colmorgen—67 Oakland Street—asked if there was an update on the property at Oakland and West streets.

Mayor Menna said they were waiting for funding through the New Jersey Mortgage and Housing Finance Agency.

Mr. Sickels said they had filed their plans and obtained their permits and were waiting for additional funding.

Mr. Colmorgen asked if the property could be cleaned up.

Mayor Menna said yes.

## **ADJOURNMENT**

Councilman DuPont offered a motion to adjourn the meeting, seconded by Councilman Zipprich.

### **ROLL CALL:**

AYES:            Burnham, Horgan, Schwabenbauer, Zipprich, DuPont

NAYS:            None

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

Respectfully submitted,

Pamela Borghi