

**MINUTES
REGULAR MEETING
MUNICIPAL COUNCIL – BOROUGH OF RED BANK
NOVEMBER 9, 2015
6:30 P.M.**

PLEDGE OF ALLEGIANCE

ROLL CALL

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

ALSO PRESENT: Administrator Sickels, Borough Clerk Borghi, Chief Financial Officer Poulos, Attorney O'Hern and Engineer Herrman.

ABSENT: Councilman DuPont.

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.

WORKSHOP

State Highway 35 Crosswalk at West Front Street and Allen Place

Mayor Menna reviewed the history of the issue of pedestrian safety enhancements in the area and noted that the NJ Department of Transportation had requested that the Borough pass a Resolution of Concurrence in regard to a mid-block crosswalk. He recommended that the Resolution include the request for additional enhancements including lighting, Hawk flashing and striping. He said, with Council consent, it would be added to the November 23 meeting. He said it was a positive step but was only the beginning.

Library Parking Lot Subdivision/ROSI Amendment

Mayor Menna noted there was a discrepancy between the maps on file dating back to the 1880s regarding the property that is currently the Library Parking Lot. He said the State had had an issue with it regarding the Borough's Recreational Open Space Inventory (ROSI). He said a proposed resolution would rectify the discrepancy and create a subdivision of the lot containing the parking lot only. He said the remaining open space lot would remain on the ROSI.

Councilwoman Burnham said, when a public hearing had been held on the matter, Administrator Sickels had taken another 20 feet off the back of the library.

Mr. Sickels clarified that HE had not taken another 20 feet and explained that the issue had been that, when the property was initially purchased, the intent was to provide parking for the library. He said it had been added to the ROSI and they had later negotiated with the DEP that the portion of the lot used for parking would be removed from the ROSI and the open space area would remain. He said they had also requested to remove from the ROSI a portion of the property that ran along side of library building so it could remain unencumbered. He added that doing so would remove the need to return to the DEP for approvals should they need add sidewalks or make repairs to the building.

Councilwoman Burnham said she could never understand why he had wanted to take the 20 extra feet.

Administrator Sickels said he had just explained that.

Councilwoman Burnham said she had heard that a developer was looking to put up townhouses and they had wanted that land for underground parking.

Mr. Sickels said that was absolutely incorrect.

Solid Waste Ordinance

Mayor Menna said Councilman Zipprich had provided an amendment to the Borough's Solid Waste Ordinance in regard to furniture and bulky waste.

Councilman Zipprich explained the private carting company would pick up bulky waste on the second pickup day of each week. He said the conditions were detailed in the ordinance. He said the Borough would save money and it would be user friendly.

Mayor Menna noted that the proposed ordinance was on this agenda for introduction. He add that it would provide clarity.

Councilwoman Horgan said she understood the pickups would be more frequent.

Councilman Zipprich said it would on the second pickup day of the week as outlined in the schedule.

Councilwoman Burnham said she also wanted to ask about the status of Marine Park Bids. She noted there were people in the audience who were attending on that issue.

Councilwoman Schwabenbauer said she would be addressing that issue in her report.

Mayor Menna said it was not a proper Workshop discussion because Councilwoman Schwabenbauer would be addressing it in her report. He told Councilwoman Burnham she could comment at that time.

APPROVAL OF MINUTES – October 14, 2015

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

ROLL CALL:

AYES: Lee, Burnham, Horgan, Schwabenbauer, Zipprich

NAYS: None

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

MAYORAL APPOINTMENTS

REPORTS OF MAYOR AND COUNCIL MEMBERS

Councilman Zipprich reported that Red Bank was one of six towns selected to participate in the North Jersey Transportation Planning Authority Pedestrian Safety Campaign called Street Smart New Jersey. He thanked Police Chief McConnell and DPW Director Watson for their willingness to have a dialog with the NJTPA which helped the Borough to qualify for the program. He also thanked resident Jenny Rossano for her willingness to participate. He said the campaign would help to educate the public, the private sector and non-profit organizations in urging motorists, pedestrians and cyclists to obey New Jersey Pedestrian Safety laws. He stressed the importance especially in light of several incidents that had happened in the Borough.

Councilwoman Schwabenbauer reviewed the RFP process for a proposed project at Marine Park. She thanked residents who submitted comments. She explained the scoring process for the proposals and noted that the process did not account for public opinion. She said when the proposals were scored, the Jetsun proposal had come out on top. She said they had realized that the preponderance of public opinion was not in favor of that proposal so they felt the only choice was to nullify the RFP process and formally reject all three. She said she wanted to get the information to the public but noted there had not been adequate notice to have the matter placed on this agenda.

Mayor Menna noted that he had previously said that the Council would not take an “ambush” action on the matter because it was too important. He said it would be acted on with notice and with clarity. He said due to the clarity of Councilwoman Schwabenbauer’s verbal report, he would consider that to be the report from the committee without the necessity of an additional memorandum of understanding. He confirmed that the intent was that all proposals would be rejected. He said that would be done by formal resolution of the Council and said it would be on the next agenda.

Councilwoman Burnham asked why the Borough could not have gone with the second best choice.

Councilwoman Schwabenbauer explained that the terms of the RFP dictated that the award would be given to the proposal that scored the highest numerically. She again noted that the process did not take into account for public opinion.

Councilwoman Burnham asked for confirmation that the Jetsun proposal was rejected because the public did not want it.

Councilwoman Schwabenbauer was that was preponderance of the commentary they had received in the numerous responses.

Councilwoman Burnham asked if they had made a determination of what the people did want.

Councilwoman Schwabenbauer said she had to meet with the committee to discuss.

Councilwoman Burnham noted that there were people in the audience that had regularly attended Council meetings to support the restoration of the tennis courts. She said she was surprised that Councilman Zipprich, as liaison to the Historic Preservation Commission, was not in favor of the idea.

Councilman Zipprich noted they had never been added to the historic inventory.

Councilwoman Horgan said the issue was understanding the RFP process. She said it wasn’t about preference. She noted that public opinion had come out against the proposal that had scored highest so, by law, this was the action that the Council needed to take. She noted how much time the committee had spent on the issue. She said they would be starting over from scratch.

Councilwoman Burnham said RFP cost money and she had another recommendation.

Councilwoman Schwabenbauer said she did not think they would be doing another RFP right now.

Councilwoman Burnham said she was aware of a State Statute that would allow a municipality to lease property to nonprofits that met certain criteria. She said she believed the tennis courts would meet that criteria.

Councilman Zipprich said both Councilwoman Schwabenbauer and Councilwoman Horgan had reviewed the process. He also noted that he had been involved in the process from the beginning and explained the reasoning behind the scorecard. He said they had followed the rules and were now rejecting the RFP and would move forward from there.

Councilwoman Burnham said it was her opinion that the RFP was written for Jetsun. She asked the committee to consider the State Statute regarding nonprofits.

Councilwoman Schwabenbauer said it was always the committee’s intention to listen to the people.

Councilwoman Schwabenbauer continued her report with an update on the Bellhaven project. She said the Committee had met with a representatives from the Department of Environmental Protection, the Red Bank Environmental Commission, a resident that lived adjacent to the property, someone from the Littoral Society and the Borough Engineer. She said they had toured the location and reviewed details of the project. She said it was a great meeting and spoke of the benefits of the location. She said they had the opportunity to make it an educational area as well as a playground. She again noted the splash pad feature was being bid as an alternate and said they would also be bidding environmentally friendly playground equipment as an alternate because it was very expensive. She said they would be submitting a request to the grant committee to swap out the funding that would have been used for the splash pad and possibly repurpose it for the educational/environmentally friendly features. She said the result could be a gem in the Monmouth County Park System.

Mayor Menna asked if they had an estimate regarding how much the environmentally friendly equipment would cost over regular equipment.

Councilwoman Schwabenbauer said she did but did not have the numbers with her. She said she knew that \$150,000 had been designated for the splash pad so, unless it was more than that above the regular equipment, they should be fine.

Mayor Menna asked how much the regular equipment would cost.

Councilwoman Schwabenbauer said it was in the bid but she didn’t have that handy.

Mayor Menna said it was his understanding that the environmentally friendly equipment was basically natural colors and a substitution of aluminum for wood at a cost of sixty percent higher. He said he felt that was a lot of money for taxpayers to pay for something 300 feet or less.

Councilwoman Horgan reported that the Education & Technology Committee had met the previous week. She said the IT Department is moving ahead with coordinating and streamlining the Borough’s phone systems, computers, servers, etc. She said the IT Director and Consultant had drafted an RFP for a new website vendor.

Councilwoman Burnham reported that there had been 15 Code Enforcement complaints in the last two months and two overcrowding complaints. She offered an update on several projects include Westside Lofts, Teak Restaurant and several others.

Mayor Menna said he believed the sign ordinance the Committee had proposed would be on the next agenda.

Councilwoman Burnham said she would like to wait for the new Councilmembers after the first of the year.

Councilwoman Lee had no report.

COMMUNICATIONS AND PETITIONS

Mayor Menna read a request from Eliceo Xicotencatl for membership to the Westside Hose Company of the Red Bank Volunteer Fire Department.

Councilwoman Lee offered a motion to approve the request, seconded by Councilwoman Horgan.

ROLL CALL:

AYES: Lee, Burnham, Horgan, Schwabenbauer, Zipprich

NAYS: None

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

Mayor Menna read requests from Lunch Break to hang banners on Shrewsbury Avenue on the following dates:

- 1. April 1, 2016-May 17, 2016 to advertise their annual Foodstock event;
- 2. September 1, 2016-October 18, 2016 to advertise their annual gala.

Councilman Zipprich offered a motion to approve the requests, seconded by Councilwoman Schwabenbauer.

ROLL CALL:

AYES: Lee, Burnham, Horgan, Schwabenbauer, Zipprich

NAYS: None

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

Mayor Menna read requests from the VNA to hang banners as follows:

- 1. On Broad Street from May 1-May 31, 2016 to advertise their annual designer showcase house tour

2. On Shrewsbury Avenue from Nov. 2-Dec. 2, 2016 to advertise their annual holiday house tour.

Councilwoman Lee offered a motion to approve the request, seconded by Councilwoman Horgan.

ROLL CALL:

AYES: Lee, Burnham, Horgan, Schwabenbauer, Zipprich

NAYS: None

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

Mayor Menna read a request approved by Special Events from the Dublin House to erect a tent in their front courtyard at 30 Monmouth Street from November 26, 2015 to November 30, 2015.

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

ROLL CALL:

AYES: Lee, Burnham, Horgan, Schwabenbauer, Zipprich

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.

Mayor Menna asked if anyone else would like to speak.

No one appearing, Councilwoman Schwabenbauer made a motion to close the public comment, seconded by Councilwoman Horgan.

ROLL CALL:

AYES: Lee, Burnham, Horgan, Schwabenbauer, Zipprich

NAYS: None

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

ORDINANCES – First Reading

2015-28 Mayor Menna read, “Ordinance Amending and Supplementing Chapter XIX, “Streets, Sidewalks and Sanitation”, Section 19-10 “Solid Waste Collection”, of the Revised General Ordinances of the Borough of Red Bank.”

Councilman Zipprich offered a motion to approve the ordinance on first reading, seconded by Councilwoman Horgan.

ROLL CALL:

AYES: Lee, Burnham, Horgan, Schwabenbauer, Zipprich

NAYS: None

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

Public hearing and final adoption to be held November 23, 2015.

ORDINANCES – Public Hearing and Final Adoption

2015-27 Mayor Menna read, “An Ordinance Amending and Supplementing the General Code of the Borough of Red Bank to Establish New Legislation Entitled “Fracking Waste” Specifically to Prohibit the Treatment, Discharge, Disposal, Application to Roadway or Storage of Wastewater, Wastewater Solids, Sludge, Drill Cuttings or other Byproducts from Natural Gas Exploration or Production using Hydraulic Fracturing.”

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

Kate Triggiano—22 Leighton Avenue—said she was a member of the Environmental Commission and thanked the Council for adopting the resolution.

Mayor Menna noted Red Bank only one of two towns that had taken such action.

Councilwoman Horgan noted the Food & Water Watch organization had contacted the Borough to request the ordinance.

Colleen Morely—Food & Water Watch—thanked the Council for their commitment.

William Meyer—12 Monmouth Street—questioned the need for the ordinance and asked for an example of fracking waste that would come into Red Bank.

Mayor Menna noted there was a large recycling/junk yard in the Borough as well as a rail line that went through town that goes through and to the recycling yard. He also reminded Mr. Meyer that fifteen years ago there had been an application to use the area for central storage for transport. He said they were trying to be proactive.

Mr. Meyer again asked what format the material might be in.

Mayor Menna said the intention was to prohibit storage and transport within the Borough.

Administrator Sickels also noted that residuals from the fracking had been used to coat roadways during salting or construction. He said that would probably be the most practical application in Red Bank.

Mr. Meyer said it would be a good idea to identify the likely types of materials within the ordinance.

Mayor Menna said he felt it was better to be broad because science changed.

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

ROLL CALL:

AYES: Lee, Burnham, Horgan, Schwabenbauer, Zipprich

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 Councilwoman Horgan.

ROLL CALL:

AYES: Lee, Burnham, Horgan, Schwabenbauer, Zipprich

NAYS: None

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

RESOLUTIONS

By Consent Agenda

- 15-270 A Resolution Authorizing Transfer of 2015 Current Fund.
- 15-271 A Resolution Acknowledging Receipt of Best Practices Inventory as Prepared by the Chief Financial Officer
- 15-272 A Resolution Releasing Performance Guarantee and Accepting Maintenance Guarantee Regarding 211 Broad Street, LLC, Block 105, Lots 12.04.
- 15-273 A Resolution to Authorize Shared Services Agreement between the Borough of Eatontown and the Borough of Red Bank for Shared Use of Brush Compost Services.
- 15-274 A Resolution Releasing Performance Guarantee Regarding Veritas Building, LLC, 59 Maple Avenue, Block 45, Lot 1.
- 15-275 A Resolution to Amend Resolution 15-258 Approving the Hiring of Dina Anastasio as Senior Secretary in the Planning & Zoning Office.
- 15-276 A Resolution Releasing Performance Guarantee and Accepting Maintenance Guarantee Regarding Joseph Durson and Kitch Organic, LLC, 75 Leighton Avenue, Block 70, Lot 3.02.
- 15-277 A Resolution Authorizing Reduction in Performance Guarantee Regarding Station Place at Red Bank, LLC, Block 42, Lots 1, 2, 2.01, 3, 4, 19, 20 and 21.
- 15-278 A Resolution Authorizing Tax Credits/Refunds Totaling \$462.41 due to Overpayment by Property Owner.
- 15-279 A Resolution for Renewal of Membership in the Central Jersey Health Insurance Fund.
- 15-280 A Resolution Authorizing the Appointment of Regular Crossing Guards for the 2015-2016 School Year.
- 15-281 A Resolution to Extend the Contract with Layne Christensen Inc. for the Routine Well and Booster Pump Inspection and Maintenance and Emergency Repair Services for Water Treatment Plants, Well and Plumbing Equipment.
- 15-282 A Resolution Authorizing Acceptance of Performance Guarantee Regarding Survive, LLC, 76 East Front Street, Block 27, Lots 10 & 11.
- 15-283 A Resolution Authorizing Tax Refund Totaling \$1,591.67 due to Wrongly Applied Payment.
- 15-284 A Resolution Authorizing Tax Credits/Refunds for 39 Pinckney Road (Warwick Gardens Inc.) for Tax Years 2012, 2013 and 2014 Totaling \$68,587.68 due to Judgements of the Tax Court of New Jersey.

- 15-285 A Resolution Requesting Approval of Special Item of Revenue and Appropriation According to N.J.S.A. 40A:4-87. (Body Armor Replacement Fund Program--\$3,867.77)
- 15-286 A Resolution Authorizing the Submission of an Application to the Central Jersey Health Insurance Fund for a Health and Wellness Grant.
- 15-287 A Resolution Authorizing Application to the Monmouth County Open Space Trust fund for a Grant to Fund Improvements at Mohawk Pond in Count Basie Park and Restroom Improvements at East Side Park.

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

ROLL CALL:

AYES: Lee, Burnham, Horgan, Schwabenbauer, Zipprich

NAYS: None

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

15-288 Mayor Menna read, “A Resolution Authorizing the Subdivision of Block 8, Lot 4 on the Tax Map of the Borough of Red Bank to Satisfy Requirements of the New Jersey Department of Environmental Protection in Connection with an Amendment to the Borough’s Recreation Open Space Inventory.”

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

ROLL CALL:

AYES: Lee, Horgan, Zipprich

NAYS: None

ABSTAIN: Burnham, Schwabenbauer

There being three ayes, no nays and two abstentions, the motion was declared approved.

PROCLAMATIONS

PAYMENT OF VOUCHERS

15-289 Mayor Menna read, “A Resolution for Payment of Bills Amounting to \$2,604,393.19.”

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

ROLL CALL:

AYES: Lee, Burnham, Horgan, Schwabenbauer, Zipprich

NAYS: None

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

15-290 Mayor Menna read, “A Resolution for Payment of Bills Amounting to \$1,050,822.81.”

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

ROLL CALL:

AYES: Lee, Burnham, Horgan, Schwabenbauer, Zipprich

NAYS: None

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

OLD BUSINESS

NEW BUSINESS

Councilman Zipprich reported that the Red Bank Borough Education Foundation had held a Casino Night on October 23rd and said he wanted to thank everyone who had participated. He said the foundation had raised over \$7,000 which would go towards the Rosemarie Kopka STEAM lab at the Primary School.

AUDIENCE

Don Pepe—Scarinci Hollenbeck Law Firm—said he represented the Red Bank Clay Tennis Court Association and said they applauded the Council and the Recreation Committee for their action. He said his group wanted to know what that would mean for the tennis courts. He noted that it had been years since Hurricane Sandy and the courts were still unavailable for use. He said the association had maintained the courts through funds they had raised privately and said he felt the town was obligated to maintain the recreational facility where the funds were available. He called for a public/private partnership because he said the money was there to fix the courts. He said there was no need for an RFP or a Council vote. He noted other communities where that process had worked.

Barbara Nevius—62 Windward Way—Thanked Administrator Sickels for responding to her phone call regarding the condition of the tennis courts. She said they had been cleaned up and looked a lot better.

Mr. Sickels credited the Public Works Department and noted the manpower was now available due to the privatization of sanitation collection.

Councilman Zipprich also noted that the work was also done as this time because the growing season had ended at it was easy to remediate the weeds.

Ms. Nevius said she also wanted to make the Council aware of the Monmouth County Open Space Grant program and noted both Fair Haven and Rumson had received \$250,000 the previous year for waterfront projects. She suggested the Borough apply for the grant.

Administrator Sickels said the Borough actually currently had a grant for Marine Park and said they were receiving bids the following day for a project to relocate the restroom building along with other improvements. He said the Borough applied for the program every opportunity that they could.

Councilwoman Burnham noted that the Bellhaven grant was also a \$250,000 matching grant.

Ms. Nevius said those projects were not mentioned on the list of towns that received money for 2015.

Administrator Sickels said the Borough was eligible for the grant every two years.

Ms. Nevius also said that a nonprofit 501c3 had been set up for the tennis courts.

William Meyer—12 Monmouth Street—asked about the subdivision resolution. He said he thought he had heard that they did not know the extent of the riparian rights and how it would affect the subdivision.

Mayor Menna said that maps had been filed and the issue had been resolved.

Mr. Meyer asked why it had been done.

Mr. Sickels said it had nothing to do with riparian rights. He said the subdivision was part of a negotiation with the DEP. He reviewed the history of the properties adjacent to the library. He said the DEP had agreed to remove a portion of the lot used for library parking from the ROSI but said the Borough would have to subdivide the lot. He said the matter had been held up because there was a questions regarding the riparian rights but said it had been resolved.

Kate Triggiano—22 Leighton Avenue—said she was happy with the direction the Bellhaven property was taking. She said she wanted to clarify that there was more of a difference with natural playscape equipment than one being made out of colorful metal and one made of natural eco-friendly materials. She also explained that children played on them differently. She also said it was unfair to tell taxpayers that it would cost more since it was being funded by a grant.

Mayor Menna noted that, whether the money came from State, County or local funding, it was still being paid for by taxpayers.

There was a discussion of the costs associated with the proposed project.

EXECUTIVE SESSION

ADJOURNMENT

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

ROLL CALL:

AYES: Lee, Burnham, Horgan, Schwabenbauer, Zipprich

NAYS: None

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

Respectfully submitted,
Pamela Borghi