

**MINUTES
REGULAR MEETING
MUNICIPAL COUNCIL – BOROUGH OF RED BANK
MAY 8, 2013
6:30 P.M.**

PLEDGE OF ALLEGIANCE

ROLL CALL

PRESENT: Mayor Menna and Council Members Lewis, Zipprich, DuPont and Horgan.

ALSO PRESENT: Administrator Sickels, Municipal Clerk Borghi, Attorney O’Hern, Engineer Ballard and Chief Financial Officer Lapp.

ABSENT: Councilwoman Lee and Councilman Murphy (Councilman Murphy arrived at 6:37 p.m.)

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, 2013.

WORKSHOP

Tax Exempt Financing

CFO Lapp said she had received a copy of a resolution from the County that was encouraging Federal lawmakers to not remove the tax exempt protection that State and Local governments currently have when they issue debt. She said the impact if it was removed would be that the interest rates would be higher. She said she was recommending that the Borough also pass a resolution to encourage them not to remove that protection.

Mayor Menna said he was in support of that and a draft resolution had been prepared.

APPROVAL OF MINUTES – April 24, 2013

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

ROLL CALL:

AYES: Lewis, Zipprich, DuPont, Horgan

NAYS: None

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

MAYORAL APPOINTMENTS

None.

REPORTS OF MAYOR AND COUNCIL MEMBERS

Councilman DuPont noted that there was a budget amendment on the agenda that would reduce the tax levy by \$85,000 and added that it was a decrease of a little under two percent. He said he also wanted to congratulate Councilwoman Horgan for participating in a workshop to encourage women to run for public office. He also reported that the Mayor’s Wellness Campaign would be sponsoring an event at the Red Bank Middle School that would feature discussions by doctors from Meridian that would be talking about healthy eating, exercise and more. He said the event would be Thursday, May 16, from 6 to 8 pm.

Councilman Murphy arrived at 6:37 p.m.

Councilman Zipprich noted it was “Pink Week” in Red Bank and said he was happy to see neighboring municipalities also participating. He said his mother was a breast cancer survivor and reviewed some of the events going on during the week. He also reported that the Department of Public Works and the Shade Tree Committee were working with First Energy to trim the tree branches near power lines. He said DPW had also been working with New Jersey Waterway Debris Project to scan the waterways for debris in the aftermath of Hurricane Sandy. He also encouraged Council members to review the Engineer’s Status report that had been distributed with the meeting packet.

Councilwoman Lewis said she was proud to announce that the Vision Committee’s sponsorship letter had gone out to request funding for the Count Basie 365 program.

Councilwoman Horgan reported that the Rent Leveling Board had had a special meeting on May 1 at the Senior Center regarding an application by Grandville Towers. She said the next meeting would be May 30, at 7:30 pm. She said the Board would be deciding what fell within the definition of a capital improvement and what would be defined as maintenance in order to fairly grant an increase in rents. She also reported on the seventh annual Running and Winning workshop that had taken place on Friday, May 3, at Monmouth Regional High School. She said she and Councilwoman Lee had participated and said it was a Women in Government Leadership program for young women in high school. She said it introduced the female high school juniors to the political process by

providing them will access to women in government and gave details on the program. She also reported that she had attended a Drug Abuse Resistance Education graduation at the Red Bank Middle School on the previous Friday. She also reported that she had participated in a Youth Day Breakfast at the Elks Lodge on May 5 and noted they had awarded five scholarships. She said she had presented a proclamation on behalf of the Mayor and noted that the Elks had also presented the Borough with a Certificate of Appreciation for promoting youth activities. She also noted that there would be a presentation of an informational video on hydraulic fracturing on May 16 at the First Presbyterian Church of Rumson hosted by Food and Water Watch. She added that it was about toxic wastewater being dumped in New Jersey and how residents could protect themselves. She said she also wanted to remind everyone that Lunch Break was hosting a community food drive on Saturday, May 18 from 11 am to 2 pm at the Red Bank Middle School. She noted the organization was celebrating their 30th anniversary and hoped to collect 30,000 pounds of food to commemorate the event.

Councilman Murphy had no report.

Councilman DuPont said he wanted to add that the Mayor's Wellness Campaign and the Parks and Recreation Department would be holding Fitness in the Park events every Wednesday from May 22 through September 25.

Councilman Zipprich said he wanted to add that the Historic Preservation Commission had rescheduled their Spring Gathering for June 8 at the Red Bank Women's Club.

Mayor Menna noted that Councilwoman Lee could not be at this meeting because of a previous commitment but noted there was a proclamation regarding National Pet Week on the agenda and she had asked him to remind everyone that there is a licensing ordinance for both dogs and cats. He said it was important for owners to make sure their pets, who he said were family members, were registered with the Borough. He added that notices were mailed in January but some owners had not responded. He said it was important because, should the pet be lost, it would provide for their safe return or, in the event of an accident, owners could be contacted. He also reported that he had attended a meeting at Red Bank Veterinary Hospital to discuss an event soon to be announced called the Dog Days of Summer. He said it would be a creative initiative that would have pets, as family members, enjoying evenings in Red Bank. He said more would be announced after a second meeting scheduled for the coming week.

COMMUNICATIONS AND PETITIONS

None.

PUBLIC COMMENT ON RESOLUTIONS ON THE AGENDA AND ORDINANCES ON THE AGENDA ON FIRST READING

Mayor Menna opened the public comment portion of the meeting and asked if anyone would like to speak.

No one appearing, Councilman DuPont offered a motion to close the public comment portion of the meeting, seconded by Councilman Zipprich.

ROLL CALL:

AYES: Lewis, Zipprich, DuPont, Horgan, Murphy

NAYS: None

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

ORDINANCES – First Reading

None.

ORDINANCES – Public Hearing & Final Adoption

None.

RESOLUTIONS

13-99 Mayor Menna read, "A Resolution Authorizing the Execution and Entry into an Amendment to the Developer's Agreement between MW Red Bank, LLC and the Borough of Red Bank."

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

ROLL CALL:

AYES: Lewis, Zipprich, Horgan, Murphy

NAYS: None

ABSTAIN: DuPont

There being four ayes, no nays and one abstention, the motion was declared approved.

13-111 Mayor Menna read, "A Resolution Authorizing Constance S. Ludden, Tax Collector, to Complete Application to Participate in Electronic Tax Sale Process."

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

ROLL CALL:

AYES: Lewis, Zipprich, DuPont, Horgan, Murphy

NAYS: None

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

13-112 Mayor Menna read, "A Resolution Authorizing a Tax Refund Due to Erroneous Payment of Taxes."

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

ROLL CALL:

AYES: Lewis, Zipprich, DuPont, Horgan, Murphy

NAYS: None

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

13-113 Mayor Menna read, "A Resolution Authorizing a Tax Refund Due to the Cancellation of a Tax Lien Certificate Redemption."

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

ROLL CALL:

AYES: Lewis, Zipprich, DuPont, Horgan, Murphy

NAYS: None

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

13-114 Mayor Menna read, "A Resolution Authorizing Emergency Appropriations in the 2013 Temporary Budget."

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

ROLL CALL:

AYES: Lewis, Zipprich, DuPont, Horgan, Murphy

NAYS: None

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

13-115 Mayor Menna read, "A Resolution Authorizing the Retention of Pamela J. Brodowski to Provide Expert Consulting Services for the Defense of Tax Appeals Filed by Morco, LLC with Respect to Property Located at 58-64 Broad Street."

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

Councilman Murphy asked why there was a need to retain an additional expert.

Mayor Menna said the matters were usually handled by Robert Gagliano but he had a conflict in this particular matter.

Attorney O'Hern noted that the Borough had used Ms. Brodowski in the past when there was a conflict.

ROLL CALL:

AYES: Lewis, Zipprich, DuPont, Horgan, Murphy

NAYS: None

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

13-116 Mayor Menna read, "A Resolution Authorizing Acceptance of Performance Guarantees and Inspection Escrow Regarding Station Place @ Red Bank, LLC., 95 Monmouth Street, Block 42, Lots 1, 2, 2.01, 3, 4, 19, 20 and 21."

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

ROLL CALL:

AYES: Lewis, Zipprich, DuPont, Horgan, Murphy

NAYS: None

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

13-117 Mayor Menna read, "A Resolution Appointing Dewitt J. Bacon, Michael A. Baron and Anthony Holiday as Special Law Enforcement Officers Class I."

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

ROLL CALL:

AYES: Lewis, Zipprich, DuPont, Horgan, Murphy

NAYS: None

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

13-118 Mayor Menna read, "A Resolution Providing for Introduction and Approval of Amendment No. 1 to the 2013 Municipal Budget."

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

ROLL CALL:

AYES: Lewis, Zipprich, DuPont, Horgan, Murphy

NAYS: None

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

13-119 Mayor Menna read, "A Resolution to Approve the Hiring of Kimberlee Farrington as Technical Assistant to the Construction Official."

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

ROLL CALL:

AYES: Lewis, Zipprich, DuPont, Horgan, Murphy

NAYS: None

Councilman Murphy asked if the person was replacing someone who had retired. Administration Sickels confirmed.

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

13-120 Mayor Menna read, "A Resolution Acknowledging the Hurricane Sandy Recognition Plaque and Safety Award Received from the Monmouth County Municipal Joint Insurance Fund's Executive Safety Committee."

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

ROLL CALL:

AYES: Lewis, Zipprich, DuPont, Horgan, Murphy

NAYS: None

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

13-121 Mayor Menna read, "A Resolution Appointing Taylor Doremus as Full-Time Dispatcher and Vincent Light as Per Diem Part-Time Dispatcher."

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

ROLL CALL:

AYES: Lewis, Zipprich, DuPont, Horgan, Murphy

NAYS: None

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

13-122 Mayor Menna read, "A Resolution in Support of the Preservation of Tax Exempt Financing."

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

ROLL CALL:

AYES: Lewis, Zipprich, DuPont, Horgan, Murphy

NAYS: None

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

PROCLAMATIONS

Mayor Menna read a proclamation proclaiming May 5-May 11, 2013 as Paint the Town Pink Week in the Borough of Red Bank.

Mayor Menna read a proclamation proclaiming May 5-May 11, 2013 as National Pet Week in the Borough of Red Bank.

PAYMENT OF VOUCHERS

13-123 Mayor Menna read "A RESOLUTION FOR PAYMENT OF BILLS AMOUNTING TO \$4,481,812.13."

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

ROLL CALL:

AYES: Lewis, Zipprich, DuPont, Horgan, Murphy

NAYS: None

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

OLD BUSINESS

None.

NEW BUSINESS

Councilman DuPont noted there was Senate Bill proposing a State takeover of beaches and noted there were resolutions being done by many shore towns opposing that. He said he felt that Red Bank should take a position that responsibility for control of the beaches should remain with the local governments. He said such a takeover would have a negative impact on the shore towns. He said he would like to see Red Bank pass a resolution in opposition.

Mayor Menna asked Clerk Borghi to prepare a resolution and add it to the next agenda.

Councilman Zipprich reported that he and Councilwoman Lee along with Councilman (Attorney) O'Hern had attended the Red Bank Regional High School Distinguished Alumni breakfast on April 26.

Mayor Menna thanked him for attending and noted he had been unable to attend.

AUDIENCE

Cindy Burham—71 Wallace Street—asked when Red Bank planned to advertise the public hearing regarding a request to the Department of Environmental Protection to amend the Borough's Recreational Open Space Inventory (ROSI). She said she was aware of letters the Borough had sent claiming that it had been a mistake when they had listed the entire area of Block 8 Lot 1 as Maple Avenue Boat Launch and Block 8 Lot 4 and Lot 4.01 as Library Parking Lot Park on the Borough's ROSI.

Mayor Menna asked Administrator Sickels if a date had been set for the hearing. Mr. Sickels said they had been focusing on issues with FEMA and also preparing the budget that they hadn't scheduled it yet. Mayor Menna said there would be a public hearing and it would be advertised. Mr. Sickels added that the Borough would follow the procedure that was provided.

Ms. Burnham said she had a letter from T&M Associates that said they were ready to move forward. She asked if it would be before or after the election.

Mr. Sickels said they had not discussed it because of the other issues that had taken precedent.

Mayor Menna said he didn't believe the election had anything to do with it. He said it was a governmental obligation and duty and they would set up the hearing.

Ms. Burnham questioned the fact that taxpayer money would pay for the Borough Engineer to support the Borough's claim that the parcels were put on the ROSI by mistake. She said she believed it was a misuse of taxpayer funds.

Administrator Sickels said, when those parcels were purchased, the ordinances, that also had public hearings, specifically stated that those properties were being purchased to provide parking for the library. Therefore, he continued, the intent of the ordinance was not to put the properties on the ROSI. He said they found no ordinance or resolution authorizing the properties to be added to the ROSI. He said, based on the documents, the Borough's view is that they were put on the ROSI incorrectly and without authorization. He reviewed the procedure the Borough would have to follow to have them removed.

Ms. Burnham said the DEP had stated that the Borough did not have to take the whole parcels off of the ROSI but could designate certain parking spaces for Maple Cove.

Mr. Sickels said they did not state that the Borough could take certain parking spaces and designate them in any way. He said they had said the Borough could keep the waterfront portion out of the request which would be a consideration for the Council. He again noted that the Borough's position was that the properties had been purchased for use as parking lots as per two separate ordinances and were not intended to be put on the ROSI.

Ms. Burnham said Mr. Sickels had previously stated that the Borough wanted to keep part of the property open for public access.

Mr. Sickels said Ms. Burnham was taking his statements out of context and said the point was that the Council had not considered the matter because they had been focusing on other matters and as soon as they received direction from the Council to move ahead, they would.

Ms. Burnham read from a document and said it stated "since the Borough acquired the property some 30 years ago, it had always been the Borough's intent to use the property to provide access to the river. Early thoughts were to acquire additional property and create a boat launching ramp."

Mr. Sickels asked her what else it said.

Mayor Menna noted that, in regard to the boat launch reference, the Borough had been unable to do so.

Ms. Burnham said they differed on the definition of a boat launch and added they felt they could launch from the shore and that they did not want a dock launch at the location.

Councilman Zipprich asked who she was referring to when she said “we.”

Ms. Burnham said she was referring to everyone who kayaked.

Councilman Zipprich asked if they were residents.

Ms. Burnham said they were.

Councilman Zipprich asked if all of the kayakers were residents of Red Bank.

Ms. Burnham said there were a lot of kayakers and that they were from all over.

Mr. Zipprich noted that she had just replied that “yes” they were all residents.

Ms. Burnham said many were.

Mayor Menna said he thought Ms. Burnham was saying that some were residents and that Councilman Zipprich was saying that some were not.

Ms. Burnham also said the 2006 Waterfront Plan had clearly shown the whole lot marked in green which would be park land.

Councilman Zipprich asked her how the Community Garden was going.

Ms. Burnham said it was going great.

Suzanne Viscomi—23 Arthur Place—said she had heard some concerns when she was going door to door in town regarding the ordinance that addressed continually barking dogs. She felt it was vague and asked for clarification on the ordinance. She also questioned how it was enforced.

Mayor Menna said she raised a good point but noted that it was a standard ordinance that was probably adopted and used in most of the municipalities in the State. He added that he thought it was broad enough to meet legal challenge and constitutional muster. Regarding enforcement, he continued, complaints were usually forwarded to the Animal Control Officer for investigation. He said either the ACO could sign a complaint based on the lack of security and safety of animal or the caller could sign as the aggrieved party. He said the matter would be reviewed in municipal court and the ordinance would be interpreted in liberal fashion depending on the facts and cited examples.

Attorney O’Hern said he agreed with the Mayor’s assessment and noted that those types of ordinances were purposely drafted in a general way because circumstances differed from case to case.

Ms. Viscomi expressed concerns about how it would be interpreted.

Councilman DuPont suggested that Attorney O’Hern take a look at the ordinance to see if any changes were needed.

Administrator Sickels said if Ms. Viscomi was aware of any specific instances where there was a problem, she should forward the information to the attorney.

Attorney O’Hern noted that if a matter got to the point where a complaint was brought, it would be up to the judge to come to a determination based on the evidence. He added that there were several ordinances that were drafted in the same manner and gave the example of someone playing music. He said, as Councilman DuPont had requested, he would take a look at it and see if other towns had anything more specific.

EXECUTIVE SESSION

None.

ADJOURNMENT

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

ROLL CALL:

AYES: Lewis, Zipprich, DuPont, Horgan, Murphy

NAYS: None

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

Respectfully submitted,

Pamela Borghi