

**MINUTES
REGULAR MEETING
MUNICIPAL COUNCIL – BOROUGH OF RED BANK
AUGUST 14, 2013
6:30 P.M.**

PLEDGE OF ALLEGIANCE

ROLL CALL

PRESENT: Mayor Menna and Council Members Lewis, Zipprich, DuPont, Horgan, Lee and Murphy.
ALSO PRESENT: Administrator Sickels, Municipal Clerk Borghi, Chief Financial Officer Lapp, Attorney O’Hern and Engineer Ballard.

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.

SUSPEND REGULAR ORDER OF BUSINESS

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

ROLL CALL:

AYES: Lewis, Zipprich, DuPont, Horgan, Lee, Murphy

NAYS: None

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

Grandville Towers Apartments Appeal

Mayor Menna noted that the Council was hearing an appeal regarding the Grandville Towers apartments pursuant to the Administrative Code of the Borough. He noted that the members of the Council had been provided with a copy of the transcripts and the filings/paperwork that had been presented to the Rent Leveling Board. He also noted that there was a color rendering of the proposed improvements and asked that it be placed in the view of the Council members. He asked the Counsel appearing to identify themselves for the record.

Paul Schneider, of Giordano, Halloran & Ciesla, said he was appearing on behalf of Teddy Construction Co.

Peter Wersinger said he was House Counsel for Teddy Construction Co.

Mayor Menna said it was an appeal on the record and there would be no new testimony. He said he also wanted to note, for the record, that there had also been an appeal filed by a tenant of Grandville Towers which he said dealt with a very limited issue. He said he believed the Governing Body would be able to move forward with a determination on that appeal. He asked the Borough Attorney to advise the Council regarding jurisdictional requirements.

Attorney O’Hern said he had reviewed the notice of appeal and found it was in proper form, properly filed and properly served. He confirmed that the Governing Body had jurisdiction over the matter.

Mr. Schneider offered actual copies of the proof of service.

Mayor Menna asked that he give it to the Borough Clerk.

Mayor Menna asked that they first address the appeal of tenant Jane Manning and said he understood that she was appealing the determination by the Rent Leveling Board that would allow for the passing along as a Capital Improvement the cost of storage bins that were provided to some tenants of the property. He noted that the appellant was stating that that should not be allowed and said, in his opinion, it seemed she had a legitimate argument in that there were 90 units in the building and only 30 storage bins. He suggested the cost could be passed on through a license agreement or separate lease agreement to those who received storage bins.

Mr. Schneider explained that were currently approximately 30 storage bins that would serve about a third of the tenants. He said the proposal was to replace the old bins with more modern storage lockers which would be twice the size but noted there would not be an increase in the number of storage lockers. He said they had believed and the Board agreed that, even though they were only available on a first come, first served basis, it was a major capital improvement and should have been allowed. He said, in regard to Ms. Manning’s appeal, since the units would only be available to one third of the tenants, they would consent to the appeal asking the Council to disallow that item and they would look for other ways to finance it.

Mayor Menna said he appreciated that since it would resolve a simple, common sense issue. He also noted that he had reviewed all of the transcripts and documents. He also complimented Councilwoman Horgan and the Rent Leveling Board as a whole for their diligence and courtesy to the tenants as well as the applicant. He said it was a testament to their hard work that there were very few people appearing to speak on the appeal. He said the Council’s review would, in no way, impinge on the work done by the Board’s but compared it to the Appellate

Division where they look at different points to structure a resolution to the appeal.

He also noted that Grandville Towers had been in the Borough for many years and said he thought everyone, including the tenants, was very pleased with a comprehensive improvement of the site. He said, in reviewing the transcript, he noticed that there was a lot of work that had been identified as landscaping as part of the Capital Improvement. He said he had discussed the matter with the Borough Engineer and she had pointed out that some of it had to do with improvements that were mandated by the Zoning Board of Adjustment years before when they approved the expansion of the site including the roadway, parking lot, access roads and sidewalks. He suggested that that part of the appeal be referred back to the Rent Leveling Board for greater clarification with assistance from the Borough Engineer. He asked if the appellant had any objection to that.

Mr. Schneider said he would not object.

Mayor Menna reviewed the items to be considered. He said the first item was an entrance portico which he said was a new item that was greatly favored by the tenants and said he felt it was a Capital Improvement. Regarding the pool, he said any expert in the business will state that after 40 or 50 years a pool must be replaced and cannot be improved and said he felt that was a Capital Expenditure. He said he also felt the rear awning would be a Capital Expenditure. Only based upon case law, he continued, and what the two Appellate Division cases have said with respect to the heating elements as part of the health and safety of the building, he would think the baseboard heat and roof exhaust fans, both part of Phase 3, would be considered Capital Improvements. He said he was torn on the line item for lobby lighting and would be interested to hear from the Council.

Councilman DuPont thanked the Rent Leveling Board for providing a wonderful record as well as Mr. Schneider and his client. He read the definition of a major capital improvement. He said he agreed that the portico was a major aesthetic improvement and should be viewed as a capital item. In regard to the baseboard heat in the common area, he said, the case that was cited supports the capital argument. He said he also felt the new pool would fit the definition of a Capital Improvement as a substantial rehabilitation to the property which would add value. He said he also agreed that the rear awning could be viewed as a Capital item. He said he also had concerns about the landscaping. He added that he felt the case law clearly supported these items as Capital Projects.

Mayor Menna asked Councilman DuPont about his opinion on the lighting.

Councilman DuPont said he could see arguments both for and against and would like more information.

Mayor Menna noted that the testimony was that the lighting was being replaced due to environmental considerations such as energy saving LED lighting.

Councilman DuPont said, if that was the case, it would meet the requirement of major a Capital Improvement. He also agreed that the portico, the pool and the baseboard heating would also fit as Capital Improvements.

Councilwoman Horgan said she begged to differ. She said she might allow the pool as a Capital Improvement but said she felt that the Rent Leveling Board had been meticulous and had listened to hours of testimony. She said they went over every item one by one with careful consideration. She again said she might agree with the pool but said she did not feel there was justification for the other items.

Councilman Murphy asked if Grandville Towers had submitted an application to convert to condominiums.

Mayor Menna said there had been an application before the Zoning Board of Adjustment many years ago for a conversion plan that had not been effectuated. He said it was his recollection that the Zoning Board had permitted the conversion plan, but as part of the approval, site plan improvements had been mandated which was what he had been discussing with the Engineer. He said he thought they were also supposed to build one or two Mount Laurel units.

Councilman Murphy asked when that had happened.

Mr. Wersinger said those plans dated back to 2006 and had been modified some time after. He said that was not part of the application before the Council and noted that there had been some concern about the matter among the tenants. He said they have represented numerous times that there was no plan to convert the units because the market would not sustain it. He said it was a rental situation now and in the foreseeable future.

Councilman Murphy said the tenants may be concerned when they see the work being done that was approved when they were considering converting to condos. He said he was also concerned about whether or not that application had been laid to rest.

Mr. Schneider said, just because the items had been included in an application to sell the units as condos, did not mean that it was not a renovation that would provide benefits to renters. He also noted that the costs would be capitalized over a fairly long period of time of 17 to 24 years and tenants would only pay the portion for when they lived there.

Councilman Murphy asked if they planned to raise the rent or if they would apply an assessment.

Mr. Schneider said, under the ordinance, it would be an assessment. He added that the base rent was tied to the Consumer Price Index and there would be an additional assessment based on the total cost of what was allowed. He also noted that the Board had retained jurisdiction and said the applicant had given conservative numbers and was hoping they would come in less. He said, if costs were less, they would only be allowed to recover the actual cost which would be approved by the Board. He also noted that the ordinance allowed for decontrol upon

vacancy that would allow a new tenant to be charged market rate but the assessment would remain the same.

Councilman Murphy asked who the owner of the building was.

Mr. Wersinger said it was owned by Teddy Construction.

Councilman Murphy noted that he was a landlord and he understood the issues. He said some improvements to properties were done to protect the owner's interest and not all could be passed on to tenants. He again noted that many of the improvements had been required under the Zoning application years prior. He said he understood the Mayor's points, but said the building was owned by an individual as an investment and that investment needed to be protected.

Councilman DuPont asked the Borough Attorney what the Appellant's burden of proof was.

Attorney O'Hern said they had to meet the standard that was in effect. He said the Governing Body would have to apply the facts to determine if it was a Capital Improvement within the meaning of the Borough's Ordinance.

Councilman DuPont noted that he had read the legal briefs that had been provided as well as the transcript. He agreed with Councilman Murphy that there had been an investment. He also noted that it was a rent controlled apartment and they needed to consider the definition of a Capital Improvement. He admitted he was not an expert, but based on the case law cited as well as the definition, the items would appear to fit.

Councilwoman Horgan asked Councilman DuPont which definition he was referring to, whether it was the ones from Verona and Georgian Gardens or the one from the Red Bank Ordinance, because, she said, they differed. She noted that the Red Bank Ordinance was different from the ones cited and reviewed the wording from the Borough's Ordinance.

Mayor Menna said Councilwoman Horgan's definition would actually support the application for many of the items because many of the items met that definition.

Councilwoman Horgan noted that the Rent Leveling Board had felt that they did not fulfill the definition. She said there was also testimony by the applicant that, if certain items did not fall under the definition of Capital Improvement, they might not be done.

Councilman Murphy agreed that, as he understood the ordinance that Councilwoman Horgan had read, many of the items would be an improvement to the lifestyle of the tenants. He also noted the case law reviewed by Councilman DuPont. He also spoke about his personal concerns with Rent Control in general and how it affected property owners.

Councilman DuPont said he wanted to add that Rent Leveling Board Attorney Gene Anthony had offered a definition of Capital Improvements on the record to the Board. He said, when this was combined with the ordinance, many of the items would fit the description.

Attorney O'Hern said they should look to the Borough ordinance first and noted that it was probably more flexible than the case law.

Councilman Zipprich asked about specifics of the Rent Control Law particularly when a tenant vacates.

Mayor Menna explained that once a tenant moves out, the new tenant comes in under a new lease and that there would be decontrol at that time. He said the apartment could be rented at up to market rate. Going forward, he continued, rent control would apply to subsequent increases.

Councilman Zipprich asked if there were criteria that a tenant had to meet to qualify for rent control.

Mayor Menna said there was not. He also noted that the Capital Improvement assessment would not change.

Mr. Schneider reviewed the differences between rent control and non-rent control contexts noting that a landlord of a non-rent controlled unit could pass the costs along as long as the market would bear it. He said in a rent control context that was not the case. He also noted there was a 15 percent cap which meant the surcharge could never be more than 15 percent of anyone's rent.

He also cited the example of the mailboxes that were going to be twice as big and said that he thought that having a bigger mailbox that met postal standards was a betterment. He said he was not attacking the Rent Leveling Board and said he felt they had been extremely conscientious but added that the ordinance provides for appeals to the Governing Body. He said he felt they had been more than reasonable by agreeing to the tenant appeal by Ms. Manning without her needing to appear. He also said he felt all of the things in their appeal were justified.

Councilman DuPont noted that an added benefit was that the Borough could increase the assessment on the property.

Mayor Menna said part of the problem was that they were discussing a 40 to 45 year old building and regular improvement was not going to improve the building. He said this was a comprehensive improvement to one of the Borough's iconic buildings that was part of Red Bank's landscape. He said this was an opportunity for the residents of and visitors to Red Bank to be given an entrance vista that was substantially greater than it had been. He said it would also result in an approximately \$3.8 million increased assessment for the property. He said tonight's discussion had been courteous and professional. He said the Board had done a fine job of addressing questions and whittling out some line items which were not before the Council. He said if it was a bad plan, the Council would have been swamped with people but noted the lack of tenants appealing the decision with only one

out of ninety appealing.

Councilman Murphy asked for confirmation that there had only been one tenant appeal.

Attorney O'Hern confirmed that that was the case.

Councilman Murphy said if there concern was to protect the tenants, they should consider what the assessment would be but noted that would not be determined until the cost was determined. He confirmed that it could not exceed 15 percent of the rent.

Attorney O'Hern said there was an analysis in the record that included projections.

Mayor Menna noted that, at the end of every year, they would have to submit invoices to the Board. He said the Board will review the money spent and advise the management company as to the percentage increase that would be allowed. He summarized that the Board would retain jurisdiction and determine what a fair allocation was. He pointed out that many of the tenants were not present because they knew that it was an ongoing process.

Councilman Zipprich asked the Mayor to clarify that by "Board" he was referring to the Rent Leveling Board.

Mayor Menna confirmed that he was.

Councilman Murphy said he wanted to remind the Council that there were quite a few properties in the Borough that were rent controlled. He noted that one of the properties had to install elevators and tenants were assessed. He again noted his concerns with rent control.

Councilwoman Horgan noted that 80 percent of the items that had been presented to the Rent Leveling had been approved and that those in the appeal were the minority. She also noted that the amounts presented were just estimates because there were no invoices yet. She said she believed there were two sides to every story and she wanted to be fair and just to both the landlord and the tenants. She said she was very concerned about the tenants being protected. She also said she thought the decisions made by the Rent Leveling Board were fair.

Councilwoman Lee asked about the improvements to the storage units that had triggered the tenant appeal and asked how they had managed to expand the thirty units within the same space.

Mr. Schneider explained that they were not all in the same space and said they had used additional area in the basement.

Mayor Menna said, as he read the transcript, the Board had allowed the storage bins because they were safer and larger but the tenant had appealed because she would not receive access to a unit and he felt she was right.

Mayor Menna asked Attorney O'Hern if they should review the issues item by item.

Attorney O'Hern said, because there was a difference of opinion, they should vote on each item.

Mayor Menna called for a motion on whether or not to allow the entrance portico at \$60,000 as a Capital Improvement.

Councilman DuPont made a motion to approve the entrance portico as a Capital Project in accordance with the definition in the Borough ordinance, seconded by Councilman Murphy.

ROLL CALL:

AYES: Lewis, Zipprich, DuPont, Lee, Murphy

NAYS: Horgan

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

Mayor Menna called for a motion on whether or not to allow the lobby lighting at \$7,500 as a Capital Improvement.

Councilman DuPont made a motion to approve the lobby lighting as a Capital Project.

There being no second, the motion failed.

Mayor Menna called for a motion on whether or not to allow the Granite floor tile as a Capital Improvement.

There being no motion, the request failed.

Mayor Menna called for a motion on whether or not to allow the swimming pool at \$60,000 as a Capital Improvement.

Councilman Murphy made a motion to approve the swimming pool as a Capital Project, seconded by Councilman DuPont.

ROLL CALL:

AYES: Lewis, Zipprich, DuPont, Horgan, Lee, Murphy

NAYS: None

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

Mayor Menna called for a motion on whether or not to allow the rear hall awning at \$3,500 as a Capital Improvement.

Councilman Murphy made a motion to approve the rear hall awning as a Capital Project, seconded by Councilman DuPont.

ROLL CALL:

AYES: DuPont, Lee, Murphy

NAYS: Lewis, Zipprich, Horgan

There being three ayes and three nays, Mayor Menna voted aye to break the tie and the motion was declared approved.

Mayor Menna called for a motion on whether or not to allow the rear hall replacement mailboxes at \$6,900 as a Capital Improvement.

Councilman Murphy made a motion to approve the mailboxes as a Capital Project, seconded by Councilman DuPont.

Councilman Zipprich asked if this was an item that was required by the postal service. Councilwoman Horgan confirmed that it was.

ROLL CALL:

AYES: DuPont, Murphy

NAYS: Lewis, Zipprich, Horgan, Lee

There being two ayes and four nays, the motion failed

Mayor Menna called for a motion on whether or not to allow the baseboard heat as a Capital Improvement.

Councilman DuPont made a motion to approve the baseboard heat as a Capital Project, seconded by Councilwoman Lee.

ROLL CALL:

AYES: Lewis, Zipprich, DuPont, Lee, Murphy

NAYS: Horgan

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

Mayor Menna called for a motion to refer the landscaping item back to the Rent Leveling Board for further discussion.

Councilman DuPont made a motion to refer the landscaping item back to the Rent Leveling Board, seconded by Councilwoman Lee.

Councilman Murphy asked Mayor Menna to explain for the record why it was being referred back to the Rent Leveling Board.

Mayor Menna said the Board needed to go through each line item to determine whether or not it was related to the Zoning Board requirements or it was a capital improvement.

ROLL CALL:

AYES: Lewis, Zipprich, DuPont, Horgan, Lee, Murphy

NAYS: None

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

Mayor Menna called for a motion on whether or not to allow the millwork and trim in the common areas as a Capital Improvement.

There being no motion, the request failed.

Mayor Menna called for a motion on whether or not to allow the roof exhaust fans as a Capital Improvement.

Councilman DuPont made a motion to approve the replacement roof exhaust fans as a Capital Project, seconded by Councilman Murphy.

ROLL CALL:

AYES: Lewis, DuPont, Murphy

NAYS: Zipprich, Horgan, Lee

There being three ayes and three nays, Mayor Menna voted aye to break the tie and the motion was declared approved.

There being no motion, the request failed.

Mayor Menna reviewed that entrance portico, swimming pool, rear hall awning, baseboard heating and roof

exhaust fans were all approved, while the lobby lighting, granite floor, mailboxes and millwork and wall paper in common areas were not approved. He also noted the landscape improvements had been referred back to the Rent Leveling Board for further discussion.

Mayor Menna thanked Mr. Schneider and Mr. Wersinger for appearing and for a gratifying and educated discussion.

Mr. Schneider said he appreciated the Council's time and consideration.

1:00:36

RESUME REGULAR ORDER OF BUSINESS

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

ROLL CALL:

AYES: Lewis, Zipprich, DuPont, Horgan, Lee, Murphy

NAYS: None

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

WORKSHOP

APPROVAL OF MINUTES – July 10, 2013

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

ROLL CALL:

AYES: Lewis, Zipprich, DuPont, Horgan, Lee, Murphy

NAYS: None

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

APPROVAL OF MINUTES – July 24, 2013

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

ROLL CALL:

AYES: Zipprich, DuPont, Horgan, Lee, Murphy

NAYS: None

ABSTAIN: Lewis

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

MAYORAL APPOINTMENTS

Mayor Menna made the following appointments to the Zoning Board of Adjustment:

Edward Poplawski to full member for unexpired 4-year term to 12-31-14

Chris Ferrigine to Alternate #1 for unexpired 2-year term to 12/31/13

Anne Torrey to Alternate #2 for unexpired 2-year term to 12/31/14

Tiffaney Harris to Alternate #3 for unexpired 2-year term to 12/31/14

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

ROLL CALL:

AYES: Lewis, Zipprich, DuPont, Horgan, Lee, Murphy

NAYS: None

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

REPORTS OF MAYOR AND COUNCIL MEMBERS

Councilman DuPont said he had asked CFO Lapp to contact JCP&L to ask for an analysis of the Borough's utility lights. He said he had noticed that street lights had a large impact on the Borough's electric bill and wanted to find energy saving alternatives. He also reported that he and Sharon Lee had traveled through the town and noticed issues with crosswalks and said he knew the Mayor had met with the Department of Transportation (DOT) on the issue.

Mayor Menna confirmed that he had met with them in April and had a follow up meeting in May. He said had written a letter regarding that fact that there were some long term plans but he thought there were some that could be implemented now.

Councilman DuPont said he and Councilwoman Lee had noticed an elderly gentleman trying to cross a street near Riverview Towers and said both he and Ms. Lee had gotten out to help him because it was dangerous. He noted

that another municipality had blinking lights at the crosswalks to alert drivers that someone was trying to cross. He stressed the need particularly for the Borough's elderly residents.

Councilwoman Lee said she and the Mayor had discussed the issue with tenants at Navesink House and said it was clear that they needed to do something. She said she had discussed various options with the Borough Engineer and encouraged an education program with the Police Department. She said people have forgotten the basic driving code of not moving if someone was still in the crosswalk. She said the neighborhood on Riverside Avenue was particularly vulnerable as was the area around River Street Commons.

Mayor Menna noted that the Red Bank Police Department had done two roadside enforcement programs on Riverside Avenue recently. He said one was done for documents check and one was done for speed enforcement. He said it had been a major complaint of residents on Riverside Avenue and the Police Department was addressing it. He added that he thought the overall addressing of the issue had to come from the DOT.

Engineer Ballard said, in response to the meeting the Mayor had had with the DOT, they had come up with a design plan for pedestrian improvements as part of a paving project. She said they were finalizing the design recommendations and would be forwarding a copy that she would share with the Council. She said she also wanted to point out that there was a resolution for a DOT Safe Routes to Transit Grant Application regarding Shrewsbury Avenue on the agenda. She said it would provide for three different high-visibility crosswalks on Shrewsbury Avenue at Chestnut Street, River Street and West Westside Avenue. She said the Borough was getting support from the County to put in the request which would be for flashing beacons that have been shown to not only help vehicles stop but also to encourage pedestrians to go to the crosswalk.

Councilman Murphy noted that there were traffic lights with a countdown feature on both Broad Street and Front Street. He acknowledged that Riverside Avenue/Highway 35 was a difficult pedestrian area.

Mayor Menna said the need to increase crossing times had been discussed at the DOT meeting and, with Capt. McConnell's help, they had agreed to do that. He said the matter was also addressed in the letter he wrote.

Councilman Murphy said with the existing countdown traffic lights, the proposed blinking lights and time changes were all great things.

Councilman DuPont also commended Mayor Menna on his letter to Harvard University regarding the library bulkhead issue.

Councilman Zipprich thanked Engineer Ballard for her report on the crosswalk improvements. He reported that he had attended a retirement banquet the previous weekend for Reverend Northington along with Mayor Menna and Councilwomen Lee and Horgan. He said the Public Works Committee would be meeting the following week to discuss a variety of projects and receive a status report on ongoing park maintenance. He also reported that the Historic Preservation Commission would be meeting at the end of the month and would be working with the Zoning Office on ordinance review as they pertain to the Historic District. He also noted the Shade Tree Committee was gearing up for a full planting schedule and continue to monitor the pruning and forestry management plan in collaboration with the Department of Public Works.

Councilman Murphy asked Councilman Zipprich how someone could get a tree.

Councilman Zipprich said they could email him or the Chair of the Shade Tree Committee.

Councilwoman Lewis reported that the Parks and Recreation Summer Camp would be ending the following Friday and said enrollment was up for 2013. She said the U16 Boys Soccer team had won the Summer Showcase. She there were 10 Travelling Soccer teams for the fall and said the program was growing by leaps and bounds. She said she had been unable to attend National Night Out but knew that her colleagues had and said it had been well received. She said it was growing and getting more momentum. She said she was appreciative of the Police Department for continuing to grow the important community program. She commended all of the participants. She reported that the Vision Committee had scheduled three Friday night jazz concerts on August 23, September 6 and September 13 in the Shrewsbury Avenue pocket park. She said they had secured sponsors but could always use more. She said the Committee had taken the feedback from the community and enhanced the program. She said she expected flyers to be out by the end of the week. She said more information could be found on their website at www.countbasie365.com.

Councilman Zipprich commended Officer Shields on her efforts with organizing National Night Out.

Councilwoman Horgan added that Officer Shields also did the D.A.R.E. program in the schools and was great with the kids. She said the Borough was lucky to have her on the Police force. She also reported that the Borough had had its first Dog Days of Summer event. She said she had been skeptical but said the dogs had been well behaved. She noted that there was pet adoptions and it was a great event.

Mayor Menna said there would be additional dates for the event on August 27, September 24 and October 29. He noted that the October event would be a Halloween Fest for dogs. He said he had also talked to Councilwoman Lewis about adding a dog component to the Borough's Halloween Parade. He said they would be able to give out prizes in a number of categories.

Councilwoman Lewis said the date of the parade was October 20th.

Councilwoman Horgan continued her report by saying that she and Councilwoman Lee had attending an event at the Count Basie Theater for an announcement by Lunch Break of the volunteers that will be honored at their

annual gala on October 21 at the Navesink Country Club. She also reported that the Environmental Commission had met the previous night and was looking into composting and were looking to do a workshop for residents. She also noted that they were still looking for members of their Green Team.

Councilwoman Lee said Public Works Director Watson was looking into getting composting containers. She said she had notice that there were quite of few block parties in town and reported that a recent one was the only one held on the west side and was all inclusive. She said it had been held on Drs. Parker Blvd and was extremely well attended. She said the organizer had done a wonderful job.

Councilman Murphy thanked the Council for their coming out for National Night Out. He commended Officer Shields on her efforts. He thanked the Mayor for his support and the local businesses who donated. He noted that many of the businesses work behind the scenes to support other municipal events also such as the Halloween parade. He also noted that the Fire Department car show had been a wonderful event and thanked the merchants who contributed to that also. He said both the Fire Department and Police Department do a great job at their events.

Mayor Menna said, in regard to Dog Days of Summer, said it was a fun event but there was a reason behind it besides bringing awareness on the issue of animal cruelty and animal accessibility, he said they also wanted to increase the foot traffic and the visibility of Monmouth Street on an off day. He said that those retail stores that were open during the event reported sales in excess of six to ten times what it normally would have been for a Tuesday night. He said it goes to show that it does work.

Councilman DuPont reported that the Mayor's Wellness Campaign would be hosting the second annual Community Walk on September 28 that may have celebrity to help kick it off.

COMMUNICATIONS AND PETITIONS

Mayor Menna read a request from Public Media NJ, Inc. (NJTV) to film in Riverside Gardens Park during the Jazz in the Park series on August 8, August 15, August 22 and August 29, 2013, approved by the Special Events Committee.

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

ROLL CALL:

AYES: Lewis, Zipprich, DuPont, Horgan, Lee, Murphy

NAYS: None

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

Mayor Menna read a request from Jersey Shore Ghost Tours to hold guided walking tours throughout Red Bank on Fridays in August, September and October, approved by the Special Events Committee.

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

ROLL CALL:

AYES: Lewis, Zipprich, DuPont, Horgan, Lee, Murphy

NAYS: None

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

Mayor Menna read a request from the residents of South Street to hold their annual block party on Saturday, September 14, 2013 from 4:00 p.m. to 11:30 p.m., approved by the Special Events Committee.

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

ROLL CALL:

AYES: Lewis, Zipprich, DuPont, Horgan, Lee, Murphy

NAYS: None

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

Mayor Menna read a request from the residents of Elm Place to hold their annual block party on Saturday, September 21, 2013 from 2 p.m. to 11 p.m., approved by the Special Events Committee.

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

ROLL CALL:

AYES: Lewis, Zipprich, DuPont, Horgan, Lee, Murphy

NAYS: None

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

Mayor Menna read a request from the Mayor's Wellness Committee to hold the 2nd Annual Community Walk on Saturday, September 28, 2013 from 10 a.m. to 1 p.m., approved by the Special Events Committee.

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

ROLL CALL:

AYES: Lewis, Zipprich, DuPont, Horgan, Lee, Murphy

NAYS: None

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

Mayor Menna read a request from TRI Event, LLC for use of Marine Park from 3 p.m. Saturday, May 17, 2014 to 2 p.m., Sunday, May 18, 2014 to hold the Annual Red Bank Olympic and Sprint Triathlon, approved by the Special Events Committee.

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

ROLL CALL:

AYES: Lewis, Zipprich, DuPont, Horgan, Lee, Murphy

NAYS: None

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

Mayor Menna read a request from The Secret Stash, 35 Broad Street, to place a red carpet on the sidewalk running along the front of their store on August 21, 2013 from 6 p.m. to 11 p.m.

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

ROLL CALL:

AYES: Lewis, Zipprich, DuPont, Horgan, Lee, Murphy

NAYS: None

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

Mayor Menna read a request from James Coakley III for membership to Navesink Hook & Ladder Company of the Red Bank Volunteer Fire Department.

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

ROLL CALL:

AYES: Lewis, Zipprich, DuPont, Horgan, Lee, Murphy

NAYS: None

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

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.

Charles (?) Durant said he was representing the Secret Stash and they were requesting to move the date for the red carpet event to August 21.

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

ROLL CALL:

AYES: Lewis, Zipprich, DuPont, Horgan, Lee, Murphy

NAYS: None

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

Mayor Menna asked Mr. Durant to describe the event.

Mr. Durant said the organization would be celebrating Superman's 75th birthday. He also noted that this was Comicbook Men's third season in Red Bank and thanked everyone for their support.

Mayor Menna asked if anyone else would like to speak.

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

ROLL CALL:

AYES: Lewis, Zipprich, DuPont, Horgan, Lee, Murphy

NAYS: None

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

ORDINANCES – First Reading

2013-18 Mayor Menna read "An Ordinance of the Borough of Red Bank, County of Monmouth, New Jersey Amending and Supplementing Chapter 490, Planning and Development Regulations,

Article II (“Definitions”), § 490-6; and Article V (“General Provisions”) for Drive Through Facilities.”

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

ROLL CALL:

AYES: Lewis, Zipprich, DuPont, Horgan, Lee, Murphy

NAYS: None

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

Public hearing and final adoption to be held September 11, 2013.

2013-19 Mayor Menna read, “An Ordinance Authorizing a Special Emergency Appropriation Pursuant to N.J.S.A. 40A:4-53(h) for the Payment of Contractually Required Severance Liabilities of the Borough of Red Bank, County of Monmouth, New Jersey.”

Councilman DuPont offered a motion to adopt the ordinance on first reading, seconded by Councilman Murphy.

ROLL CALL:

AYES: Lewis, Zipprich, DuPont, Horgan, Lee, Murphy

NAYS: None

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

Public hearing and final adoption to be held August 28, 2013.

ORDINANCES – Public Hearing & Final Adoption

2013-16 Mayor Menna read “An Ordinance Amending Chapter XX Water and Sewer, Section 20-8 Sewer Connection Fees and Section 20-9 Water Connection Fees.”

Mayor 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 DuPont.

ROLL CALL:

AYES: Lewis, Zipprich, DuPont, Horgan, Lee, Murphy

NAYS: None

There being six 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: Lewis, Zipprich, DuPont, Horgan, Lee, Murphy

NAYS: None

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

2013-17 Mayor Menna read, “An Ordinance of the Borough of Red Bank, County of Monmouth, New Jersey Supplementing the General Legislature Section of the Borough’s General Code to Adopt Procedures and Standards Governing the Installation of Fiber Optic Cables.”

Mayor 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 Councilwoman Lee.

ROLL CALL:

AYES: Lewis, Zipprich, DuPont, Horgan, Lee, Murphy

NAYS: None

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

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

ROLL CALL:

AYES: Lewis, Zipprich, DuPont, Horgan, Lee, Murphy

NAYS: None

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

RESOLUTIONS

13-185 Mayor Menna read, "A Resolution Accepting Jones Act Sale Bids on a Municipally Held Tax Title Lien."

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

ROLL CALL:

AYES: Lewis, Zipprich, DuPont, Horgan, Lee, Murphy

NAYS: None

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

13-186 Mayor Menna read, "A Resolution Authorizing Refunds Due to Overpayment of Taxes Due to Judgments of the Tax Court of New Jersey."

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

ROLL CALL:

AYES: Lewis, Zipprich, DuPont, Horgan, Lee, Murphy

NAYS: None

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

13-187 Mayor Menna read, "A Resolution Authorizing the In-Rem Foreclosure of Municipally Held Tax Title Liens."

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

ROLL CALL:

AYES: Lewis, Zipprich, DuPont, Horgan, Lee, Murphy

NAYS: None

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

13-188 Mayor Menna read, "A Resolution Authorizing the Retention of Gary C. Zeitz, L.L.C. to provide Expert Legal Services for the Purposes of an In-Rem Foreclosure Action."

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

ROLL CALL:

AYES: Lewis, Zipprich, DuPont, Horgan, Lee, Murphy

NAYS: None

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

13-189 Mayor Menna read, "A Resolution Authorizing Approval to Submit a Grant Application and Execute a Grant Contract with the New Jersey Department of Transportation for the Shrewsbury Avenue Crossing Project."

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

ROLL CALL:

AYES: Lewis, Zipprich, DuPont, Horgan, Lee, Murphy

NAYS: None

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

13-190 Mayor Menna read, "A Resolution Authorizing Approval to Submit a Grant Application and Execute a Grant Contract with the New Jersey Department of Transportation for the Bridge Avenue Improvements Phase I Project."

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

ROLL CALL:

AYES: Lewis, Zipprich, DuPont, Horgan, Lee, Murphy

NAYS: None

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

13-191 Mayor Menna read, "A Resolution Authorizing Execution of a Payment in Lieu of Taxes (PILOT) Agreement with GS Realty for Affordable Housing Development at Block 42, Lot 19.01."

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

Mayor Menna reviewed the how the agreement would work and the benefits to the Borough by having these types of agreements in place.

Councilman DuPont agreed and said it helped to promote Red Bank as an affordable place to live.

Mayor Menna added that this particular project would improve quality of life for all residents by cleaning up a problem block on Monmouth Street with new housing.

Councilman Zipprich said he agreed and that it would allow people who had grown up in Red Bank to remain in town and would also attract residents who wanted to be close to transportation.

ROLL CALL:

AYES: Lewis, Zipprich, DuPont, Horgan, Lee, Murphy

NAYS: None

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

13-192 Mayor Menna read, "A Resolution Authorizing the Execution of a Commodity Resale Agreement with the County of Monmouth."

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

ROLL CALL:

AYES: Lewis, Zipprich, DuPont, Horgan, Lee, Murphy

NAYS: None

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

13-193 Mayor Menna read, "A Resolution Authorizing Contracts with Certain Approved State Contract Vendors for Contracting Units Pursuant to N.J.S.A. 40A:11-12a."

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

ROLL CALL:

AYES: Lewis, Zipprich, DuPont, Horgan, Lee, Murphy

NAYS: None

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

13-194 Mayor Menna read, "A Resolution Authorizing Acceptance of Performance Guarantee and Inspection Escrow Regarding Dina Enterprises, Inc., 9-11 Spring Street, Block 23, Lot 1."

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

ROLL CALL:

AYES: Lewis, Zipprich, DuPont, Horgan, Lee, Murphy

NAYS: None

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

13-195 Mayor Menna read, "A Resolution Authorizing Acceptance of Performance Guarantee and Inspection Escrow Regarding Teak Ventures, LLC, 64 Monmouth Street, Block 31, Lots 32 & 33."

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

ROLL CALL:

AYES: Lewis, Zipprich, Horgan, Lee, Murphy

NAYS: None

ABSTAIN: DuPont

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

13-196 Mayor Menna read, "A Resolution Appointing Vincent Light as Part-Time IT Coordinator at a Rate of \$20 Per Hour."

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

ROLL CALL:

AYES: Lewis, Zipprich, DuPont, Horgan, Lee, Murphy

NAYS: None

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

PROCLAMATIONS

None.

PAYMENT OF VOUCHERS

13-197 Mayor Menna read “A Resolution for Payment of Bills Amounting to \$4,363,357.28.”

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

ROLL CALL:

AYES: Lewis, Zipprich, DuPont, Horgan, Lee, Murphy

NAYS: None

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

OLD BUSINESS

Councilman DuPont stated that he would not be able to attend the next meeting.

Councilman Menna said he had reviewed the feral cat ordinance that Councilman DuPont had brought to the Council’s attention and made some notations. He asked if it was still his intent that the Council move forward with the ordinance.

Councilman DuPont said it was and noted that it was a way to try to control the population of feral cats in a humane manner rather than euthanizing.

Mayor Menna said he had checked with other agencies and they had strongly recommended the program.

Councilman DuPont noted that it was recommended by the SPCA and Red Bank Veterinary Hospital.

Councilman Murphy asked for more details on the program.

Attorney O’Hern said he had been working with the Borough Clerk on the ordinance and it had been sent to the Animal Control Officer for review.

Councilwoman Lee explained the difference between cats that had an owner attached to them and feral cats.

NEW BUSINESS

AUDIENCE

Cindy Burnham—71 Wallace Street—noted that she had asked about the parking pay stations at the last meeting and requested that a notation be added to state parking was free on Sunday.

Mayor Menna said he had asked Administrator Sickels to follow up and asked for an update.

Mr. Sickels said he did not believe any of the Borough’s signs mentioned free parking on Sundays, however, he said he had asked Gary Watson to look into it but hadn’t gotten a report back. He said he would follow up the next day.

Ms. Burnham said she thought it was easy to program the meter to state that parking was free on Sunday. She said it had been brought to her attention that during the sidewalk sale event, the meters had been programmed to say free parking.

Mr. Sickels said none of the Borough’s meters were marked to say free parking on Sunday but said they did all say that users had to pay Monday through Saturday. He said he thought that was clear.

Mayor Menna said he thought Ms. Burnham was not saying that the signs were unclear but that the pay station meters could be programmed to say payment required Monday through Saturday or that there was no need to pay on Sunday.

Ms. Burnham said the signs by the pay stations say “metered parking, Monday through Saturday” and that she thought it would be easy to program them to say “free parking on Sunday.”

Councilman Murphy said there were signs that said free parking on Sunday. He said he had been to the meters with Mr. Watson and they had made changes which including changing the time for the display of “Welcome to Red Bank” from ten seconds to five seconds to shorten the time that people had to wait to add their money. He said they also changed the buttons to match the numbers to the times such as #1 for one hour, #2 for two hours, etc. to lessen confusion. He said Ms. Burnham has stated that she heard that the meters displayed “free parking” during the sidewalk sales but he was not aware of that. He did state that there were looking into making the requested change but pointed out there was signage that noted the free parking on Sunday.

Ms. Burnham said she thought it would be a nice, simple thing to do and it wouldn’t cost anything.

Mayor Menna said they would look into it.

Carl Colmorgen—67 Oakland Street—asked if the Borough had any control over an independent contract that dug a hole in the road and didn’t fill it properly. He noted there was a big bump on Bridge Avenue near West Front Street where work had recently been done.

Engineer Ballard noted that the work was ongoing. She said they are required to wait three months before refilling to allow for settling. She said they do have a bond for the work and they would not be allowed to walk away from the project without that being filled.

EXECUTIVE SESSION

13-198 The Attorney read a resolution to adjourn to executive session to discuss personnel and contract negotiations; no formal action to be taken.

Councilman DuPont offered a motion to adjourn to executive session to discuss contract obligations, seconded by Councilman Zipprich. Minutes to be made public in 180 days.

ROLL CALL:

AYES: Lewis, Zipprich, DuPont, Horgan, Lee, Murphy

NAYS: None

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

Councilman DuPont offered a motion to close executive session, seconded by Councilman Zipprich.

ROLL CALL:

AYES: Lewis, Zipprich, DuPont, Horgan, Lee, Murphy

NAYS: None

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

ADJOURNMENT

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

ROLL CALL:

AYES: Lewis, Zipprich, DuPont, Horgan, Lee, Murphy

NAYS: None

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

Respectfully submitted,

Pamela Borghi

I hereby certify the above to be a true copy.

Pamela Borghi

Pamela Borghi, Municipal Clerk