

**MINUTES  
REGULAR MEETING  
MUNICIPAL COUNCIL – BOROUGH OF RED BANK  
SEPTEMBER 11, 2013  
6:30 P.M.**

**PLEDGE OF ALLEGIANCE**

Mayor Menna called for a moment of silence for the victims of the attacks on September 11, 2001 and for subsequent victims of terrorist acts.

**ROLL CALL**

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

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

**WORKSHOP**

**Project Labor Agreement**—Councilman Zipprich described what a Project Labor Agreement (PLA) entailed in regard to local and State funded building and construction projects. He noted that all public projects were already subject to Prevailing Wage regulations, so pure labor costs would remain the same under a PLA. He also reported that PLAs were available to both union and non-union contractors. He reviewed the multiple advantages PLAs could provide to owners and taxpayers including quality and cost controls. He said they would also promote jobs, stable economic growth and improve quality of life. He said the thought New Jersey residents and tax payers would be best served by keeping PLAs intact as a viable option for Public Works construction, especially in the Borough of Red Bank.

Councilwoman Horgan said she thought one of the most important things was to give local people jobs. She said the Building and Construction Trades Department had a commitment to use the services of the Helmets to Hardhats program to recruit veterans with she said she felt was very important.

Councilwoman Lewis said she understood the agreements would ensure that projects were done cost effectively and with high quality and generally came in on or before schedule. She said as part of the Borough’s fiscally responsibility, it seemed to make sense.

Mayor Menna asked for confirmation that it would apply to municipalities.

Councilman Zipprich confirmed and said that it would apply to all Public Works projects within the dollar constraints that were set forth in the sample ordinance he had provided.

Mayor Menna asked what variance it would have, if any, from the existing New Jersey Public Contracts Law which, he said, already enshrined the basic principles that Councilman Zipprich had reviewed. He said they were also competitive in nature and, in last 25 years, he said the Borough had never had a problem on a public contracts job that had led to revocation of a bond.

Councilman Zipprich said, as they looked forward to future construction projects, he thought it was an important methodology to ensure that folks in the community had an opportunity to be employed and that skilled trades people had an opportunity to work on projects. He said he believed upcoming projects should be built in a durable and economic fashion.

Mayor Menna said that was what the New Jersey Title 40 Public Contracts Law was designed to do.

Councilman Murphy noted that both Councilwoman Horgan and Councilman Zipprich had stated that it would provide jobs for the people that live in the town. He asked if that was somewhere in writing. He also asked if, in regard to the Responsible Contractor Policy Certification, that would mean that the Borough would tell a contractor or developer that they had to abide by that policy.

Councilman Zipprich said they would be setting a standard for the contractor to meet regardless of the project. He said they would be responsible for providing a level of work, level of skill and a fair wage for all of the employees.

Councilman Murphy said that was happening now. He said it was currently up to the contractors to ensure that whoever they hired had the proper skills and proper insurance. He asked why the Borough would govern who they hired and what their practices were.

Councilman Zipprich said both Councilwoman Horgan and Lewis pointed out that the Borough needed to

be fiscally responsible. He cited the recent Boardwalk reconstruction in Belmar that was done under a PLA. He said the boardwalk was built by skilled tradespeople who got it done ahead of time and saved the Borough money. He said it met all of the building standards and OSHA requirements.

Councilman Murphy said it might have happened that way anyway. He again asked why the Borough should tell a builder/developer who they should hire.

Councilman Zipprich said it was because they wanted to make sure that the project got done and that the bidder would provide skilled labor.

Councilman Murphy said he would assume the developer would be doing that since he would want his project to come out right.

Councilwoman Horgan said she didn't think they could assume that everyone would be aboveboard and hire skilled laborers. She gave the Borough Hall as an example.

Mayor Menna said there were no labor issues with the building of the Borough Hall but said the problem was miscalculations by some professionals regarding ADA standards. He also noted that if the builder had defaulted, the Borough could have picked up on a six million dollar bond.

Councilman DuPont noted that the Council had received the information the previous Saturday evening and said he had been reviewing it. In regard to the Belmar Boardwalk, he continued, he said there was no ordinance or PLA but the details were placed in the bid. He said he had made phone calls to seek more information but said he believed the proposed ordinance may inaccurate and not in compliance with the law. He said he understood the reasons behind it and said he had only been learning about it since Saturday. He said he had reached out to Freeholder Arnone for more information because he understood the County had used a PLA whether through ordinance or within the bid. He said he understood the reasons behind a PLA but did not understand the methodology behind it. He asked Mayor Menna if PLAs were used during the McKenna administration.

Mayor Menna said it had brought to the Council's attention in the mid-2000s and they had decided not to do it. He noted, at that time, they had had substantial public works projects underway. He said they had been put out to bid pursuant to the State statute and all of the projects were done by legitimate, certified contractors. He said his concern was that there was an existing State statute that regulates public bids which deals with every single public bid that goes out for a public contract. He said the intent of the statute was to create and invite competition in a regulated format which included requirements for prevailing wages, OSHA regulations and classified tradesmen. He said if there was a violation of that statute, municipalities were protected by bonding. He said Red Bank had never been involved in litigation or had work stoppages in any of the many projects that they had had. He said they had building and labor management agreements that were non-affrontive but had been done through encouragement and cooperation.

Mayor Menna also said one of the major problems he had with the proposal was that there were 53 municipalities in the Monmouth County and only two had adopted this type of ordinance, one of which was a distressed city. He noted that none of the larger municipalities had it in place. More importantly, he continued, there had been a decision in May from well respective Judge Feinberg who had struck down such an agreement saying she had concerns with its applicability to the provisions of the existing State statute. He also said there had been some discussion at the State level as to whether or not Counties and Municipalities should adopt PLAs. He said he questioned why they would want to get involved in a situation where one of the Borough's Public Works projects could be challenged in court at expense to the Borough taxpayers. He said the system in Red Bank works so, if it's not broken, why fix it.

Councilman DuPont said he was not that well educated in PLAs and would like some time to discuss it with Freeholder Arnone and Thomas DeBartolo, the President of the Monmouth Building and Construction Trades Council to learn the pros and cons and how it would be implemented.

Mayor Menna explained that the Borough could place certain requirements in a public bid that were unique to that bid which would be different than doing it by ordinance.

Councilman DuPont said his concern was that, with the recent job market, it might be worthwhile looking into if, in fact, it was accurate that it would create more jobs for individuals in the local market. He again said he would like to hear from the Freeholders about how it was implemented at the County.

Councilman Zipprich said he believed that the County ordinance was put in place around 2006 or 2007 and subsequently renewed. He said he also knew that Belmar had used a PLA agreement for their boardwalk reconstruction project. He said he understood that Sayreville, Lake Como and Monmouth County all used PLAs.

Councilman DuPont pointed out that he was the Attorney in a few of those municipalities and the agreements were done by bid, not by ordinance. He said he just wanted more information on how and why the implementation would change.

Councilman Murphy questioned aspects of the plan that would place a burden on the small business owner. He asked why the Borough would tell the contractors who they could or couldn't use in projects throughout town. He said it would limit the field and noted that the ordinance seemed to be set up for

union only. He said for Borough projects they were already required to hire a prevailing wage. He added that 99 percent of what was in the proposed ordinance as in place already.

Councilman Zipprich said he wanted to clarify that the ordinance did not cover private projects but would only be applicable to municipal projects.

Councilman still questioned the expense to the Borough noting that it stated it also included repairs and maintenance work. He said it would limit the field.

Councilman Zipprich said that was why he had asked that it be place on workshop so they could discuss it.

Councilman Murphy questioned some of the numbers cited in the proposed ordinance.

Councilman Zipprich said he believe they came from OSHA.

Councilman Murphy also asked about a reference to ERISA.

Attorney O'Hern said it referred to the Employment Retirement Income Security Act which was an employee benefit/health plan.

Councilman Murphy expressed concern about the cost of that requirement also.

Mayor Menna agreed that the PLAs could cost taxpayers a lot of money.

Councilman Zipprich said he disagreed and said it had been proven in towns where PLAs had been introduced that it actually saved tax dollars. He said one of the Council's missions was to make sure that they spent taxpayer dollars wisely, efficiently and effectively.

Councilwoman Lewis asked Mayor Menna for clarification on how it would cost more money.

Mayor Menna said there had been a plan being moved forward by the State Legislature to require PLAs as part of the Public Contracts Law and it was discouraged by the Administration citing a number of studies by the Wall Street Journal and the Office of Legislative Services showing that some of the mandated programs, especially on some of the smaller repair jobs, would limit the field of competitiveness and increase the cost of doing business. He said, while a study could be made to say whatever one wanted, he felt it was common sense that if one had to provide more services on small projects that were currently exempt from these requirements, it would increase cost.

Councilman DuPont said anything that would reduce costs and get people employed was a good thing but felt they didn't have sufficient information to implement the program. He offered to report back on discussions he may have with Freeholder Director Arnone. He added that he felt the issue was important but he felt the education was just as important.

Councilwoman Lee said she had a copy of the New Jersey Prevailing Wage Act and regulations and asked how much duplication of effort they would be doing. She questioned the need to duplicate something at the municipal level if it was already being done by the State.

Councilman Zipprich said he didn't see it as duplication of efforts because it contained the provision for prevailing wage and would hold the contractor responsible and ensure those prevailing wages would be paid out.

Councilman Murphy said they do that already.

Councilwoman Lee said it was obvious that this was what they wanted in Red Bank but questioned the need to produce another piece of legislation. She noted that the Council had spent time trying not to duplicate efforts.

Attorney O'Hern said, as far as he knew, whether the Council adopted the proposed ordinance or went by the State's Public Contracts Law it would be the same regarding prevailing wage.

Councilman Murphy noted that there were additional things in the PLA that could be costly and burdensome such as apprenticeship requirements. He again noted that most of what makes it right was already in the Public Contracts Law.

Councilman Zipprich noted that the Belmar Boardwalk project was originally bid at \$17 to \$19 million. He said the final cost was \$7 to \$8 million and he credited incentive included in the PLA for the savings.

Councilman DuPont noted that he serves as the Borough Attorney for Belmar as said that was not entirely accurate. He said there were certain incentives for getting the Boardwalk done prior to Memorial Day Weekend. He said they were part of the PLA but it was put into the bid and not done by ordinance. He said that was why he was trying to getting educated on implementing it through ordinance. He also noted again that he believed the proposed ordinance, as presented, was inaccurate. He pointed out there were ways to get educated on the matter. He said, since he had received the information on the previous Saturday, he had been reaching out and had received some information but was interested in getting more. He questioned the genesis of the ordinance.

Councilman Zipprich said he had originally broached the subject in the spring and he had taken time to make sure that what the ordinance he was compiling for Red Bank was correct especially in light of the

litigation in the court case the Mayor had mentioned earlier. He said if the Council needed time to educate themselves and fine tune the ordinance they had time to do that. He said that was why he had asked that it be placed on workshop so they could discuss it in a public forum.

Councilman Murphy asked if the Responsible Contractor Policy had been adopted by the State.

Mayor Menna said it had not.

Councilman Murphy asked if it had been adopted by the County.

Mayor Menna said he had heard from Councilman Zipprich that it had been adopted and renewed but he did not know that for a fact. He said he also had called Freeholder Director Arnone but had not heard back from him.

Councilman Murphy asked if the agreements were part of contracts at the County or if it had been enacted in the way he was suggesting it be enacted in Red Bank.

Councilman Zipprich said it was his understanding that in either 2006 or 2007, it had been enacted by the County.

Councilman Murphy asked who had done the boardwalk project in Belmar.

Someone from the audience said it was Epic Construction.

Mayor Menna said the matter would be carried for further discussion after they receive more information.

### **Rooftop and Terrace Commercial Applications/Simplification**

Mayor Menna said a couple of months ago he had brought forward the business friendly idea that some of the Borough's businesses in the downtown commercial district were very interested in detailing their places for rooftop entertainment and/or dining as well as terraces. He said he knew there had been a number of applications when the Council had first had the discussion from a number of businesses owners who were very enthusiastic but they later came back and said it was impossible. He said based on our existing regulations, ordinances and required paperwork; the estimated cost would be between \$8,000 and \$14,000 per application which he said was unacceptable. He said he went to the Borough's professionals and asked them to come up with a plan to make the process more palatable. He said he had reached out to a number of planners and architects in the area, as well as the Borough's Planning and Zoning Director, Donna Smith Barr. He said Ms. Barr would be recommending to the Planning Board that they create a Technical Review Committee to include a couple of members of the Planning Board and representatives of the Construction Office and the Fire Marshal's Office. He said the Technical Committee would streamline these types of reviews by meeting with the applicant to review and plan and, if the Building Department and Fire Marshal's Office signed off on the plans, they would be directed to proceed to the Planning Board for a simplified application. He said this made sense because the building already existed and the parking situation already existed so the footprint wouldn't change. He said there would be a public hearing for people within 200 feet to be heard on the technical aspects. He said it was his expectation that they would get about three applications in as soon as it was announced and said it would create jobs in the community, create excitement in the community and make Red Bank competitive with other municipalities that have similar streamlined requirements. He said he was grateful to outside professionals that have helped create this. He said he would be getting back to the Council so they could get the applications going.

Councilman Zipprich asked if there were currently applications on hold.

Mayor Menna said there were not. He added that they had not been filed because the technical review requirements were too expensive for a business owner to do it. He said that did not include construction fees, but was just to get the application going. He said they wanted to do the project and put money into their building but couldn't get to stage one because the paperwork was too expensive.

Councilman Murphy said the permit process in the Building Department had been streamlined over the last couple of years and it had worked out well. He said he felt anytime they could help a businessman out it was a good thing.

Councilman Zipprich asked if the applicable ordinances would have to be reviewed by the Zoning Officer.

Mayor Menna said as soon as the regulation is prepared in written form he would ask the Council to stay the application of all inconsistent ordinances for rooftop and terrace dining applications until the end of the year. He compared it to the parking moratorium they had enacted and said it was a way to get the applications done. He added that Red Bank was losing business to areas like Asbury Park and Long Branch and said he wanted to add options other than sidewalk cafes which he said were wonderful. He noted that the Council had gone along with his other suggestions such as creating recreational spaces on roof tops and higher areas of residential buildings. He said some thought it would change the character of Red Bank but cited some current applications that he said were gorgeous which would create an iconic imprint.

Councilwoman Horgan asked if the Borough would be codifying their ordinances.

Administrator Sickels noted that the Planning and Zoning book had been done and the remaining book was ready to go forward.

Borough Clerk Borghi noted that there had been an extensive review process and it should be finalized soon.

### **Rent Leveling Board Changes Proposed**

Councilwoman Horgan said the Rent Leveling Board would like to change the language regarding the appeal process. She said the Grandville Towers appeal was the first one the Board had ever had and they had found that there wasn't any language in the ordinance about timing and notices. She said the Rent Leveling Board Attorney had proposed changes to address the noticing requirement. She said there were also inconsistencies in the Ordinances and in the Board's rules and regulations that they wanted to correct. Additionally, she continued, they would like to add a provision for alternate positions on the Board. She asked that it be added for the next meeting.

Councilman Murphy asked if the Council had received copies of the information.

Mayor Menna said the Council had received a copy of a letter from Rent Leveling Board Attorney Gene Anthony. He said the proposed changes would be distribute and said they made sense. He also noted that there had been an appeal when he sat on the Board for one or two appeals but were only regarding rent increases. He said this appeal regarding capital improvements brought about the need for clarification regarding noticing.

### **Optional Dental Plan**

He noted that the Council had previously discussed providing employees with an optional dental plan. He said he thought the information had been provided but said there was some confusion about what the Borough had to do to implement it. He asked CFO Lapp to review the situation.

Ms. Lapp said there were currently RFPs out on all of the Borough's health plans. She noted that the Borough had a broker and the proposed plan was outside of plans that the Borough currently had. She said they hadn't asked the broker to look for a similar plan and asked if they should in an effort to price shop or if they should go forward with the proposed plan. She said if they went forward there would be some Administrative questions that would be different from the other plans offered.

Mayor Menna asked for Council comments.

Councilwoman Lewis asked if the proposed plan was more cost effective.

CFO Lapp said the premiums were a little bit lower and it was an all-inclusive DMO plan for the employees. She said they could offer a similar option under the current plan or they could go with this one. She noted that this plan would be different in that the broker wouldn't be able to be an intermediary. She also said she wanted to remind everyone that they had RFPs out right now for everything.

Mayor Menna asked when the RFPs would be back.

Ms. Lapp said they were supposed to be back the following week.

Mayor Menna discussed the options that would be available for the Council to consider upon return of the RFPs and asked when a new plan could be implemented once chosen.

Ms. Lapp said the date given in the RFPs was January 1.

Mayor Menna reviewed the timeline to make a decision and implement changes.

Ms. Lapp also noted that open enrollment would take place in October and that employees had been presented with some optional health plans in August. She said the Borough could offer this new dental plan and could see if the current provided could provide a similar plan. She said she thought they should be available for employees to review during open enrollment. She said they could even offer both.

Councilwoman Lewis asked about the fact that there would be no broker for the new plan and asked who would administrate and how much time it would take.

Ms. Lapp said she planned to have the HR Manager reach out to the representative of the plan to find out.

Councilwoman Lee said she couldn't imagine adding dental bills to the workload in the Borough.

Councilman Murphy asked what the saving would be.

Ms. Lapp said she believed it was a 20 percent savings over current dental rates. She said she thought it was a good plan.

Councilwoman Lewis said, once you factored in the employee time that it may take to administer the plan, it may not be cost effective.

Ms. Lapp said it was her recommendation to have the HR Manager reach out to the new company and also to let the current broker know that the Borough would like a proposal on a managed dental plan with the new RFP.

Councilman Zipprich asked if there would be a menu plan where employees could choose different

option.

Ms. Lapp confirmed that there would and said while the rates to the Borough would be reduced, she thought the real attraction was the savings to employees.

Mayor Menna asked CFO Lapp to report back to the Council with more information.

#### **APPROVAL OF MINUTES – August 28, 2013**

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

#### **ROLL CALL:**

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

NAYS: None

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

#### **MAYORAL APPOINTMENTS**

None.

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

Councilman Murphy reported that Rose Mary Riegelman had passed away and noted she was a member of a Fire Department family. He also noted that Anthony Falvo, also a member of the Red Bank Volunteer Fire Department and a lifelong member of the Borough.

Councilwoman Lee had no report.

Councilwoman Horgan reported that members of the Red Bank Borough Education Foundation had met on September 3 and decided to donate money to the Red Bank Middle School to help them reinstitute their video program which had placed third in a national competition a few years ago. She said the program had been cut when the state had cut funds for education. She also reported that Lunch Break had acquired a storage space in Tinton Falls to accommodate clothing and other items. She said they needed everything to make the space into a viable office including shelving, desks, chairs, computers, office supplies and bathroom fixtures including sink, faucets, toilets and bathroom supplies. She also reported that the Environmental Commission had met the previous evening and would have having two clean ups, one on Saturday, September 21 from 12 to 3 and the bottom of Chapin Avenue and another on Saturday, October 19, at the end of Drs. James Parker Blvd. In regard to composting, she continued, they would be inviting an expert on the subject to their next meeting. She also noted the she and Councilwoman Lee had attended the Fire Department's street fair and said it was a very successful event.

Councilwoman Lewis reported that the Vision Committee had had two successful events in their concert series and the final one would be the following Friday. She said she wanted to officially thank the event's sponsors which were Investors Bank, the Community YMCA, McKenna, DuPont, Higgins and Stone, Powerhouse Signs, ICB and Lunchbreak. She said the series had been a huge success and the committee could not have done it without the sponsors. She invited everyone to come out for the final event which would be held in the pocket park at Shrewsbury Avenue and Drs. James Parker Blvd.

Councilman Zipprich asked everyone to remember those who were lost on September 11, 2001. He reported that the Shade Tree was meeting on this same night and said they had met with the County Shade Tree Commission to identify trees that needed to be removed from along County roads and also those that are in need of pruning. He also reported that Red Bank would be hosting a 200 tree giveaway in collaboration with the Environmental Commission which was sponsored by the New Jersey Tree Foundation and said, at this time; all 200 trees that had been allotted had been spoken for and would be picked up from the parking lot at Borough Hall on October 26<sup>th</sup>. He said the Historic Preservation Commission was planning its Fall Gathering to educate residents on the importance of historic preservation which would be held on a November date to be announced. He said members of the group were also volunteering in the effort to save the T. Thomas Fortune house. He also reported that the Public Works Committee was scheduled to meet the following week.

Councilman DuPont reported that the Mayor's second annual Wellness Walk would be held September 28<sup>th</sup>. He said Councilwomen Horgan and Lee would be representing the Council and collecting art supplies for the Boys and Girls Club. He said the walk would be held rain or shine and they would be raffling a bicycle. He said wanted to recognize the Borough's partners in the event who he said had been instrumental in making it happen and they included the Community YMCA, Riverview Medical Center, Red Bank Visitors Center, Pilgrim Baptist Church, RiverCenter, and the Monmouth County Regional Health Commission. He said there would also be a van on site where people could get a health screening before the walk. He said the event was open to everyone and all of the Borough's schools would be participating. He also said that the crosswalk near Victory Park was a matter that the Council had discussed before and said recently another senior citizen had fallen. He said he had been there when the man fell and, after he had helped him up and was trying to help him cross, no cars were stopping. He said there was nothing in the area to slow cars down. He said he had called Engineer Ballard to see what was being done but she had been away. He said it was an area that a lot of seniors live in and he thought it needed to be addressed.

Mayor Menna noted that he and Engineer Ballard, along with the Administrator and the Chief of Police, had met with New Jersey State officials on the issue and had follow up meetings. He said he had followed up with the Deputy Commissioner and strongly suggested that, while State regulations required traffic counts to be performed before they could move forward on some items, there were a number of things they could do immediately such as extending the timing of the lights. He also called for more local traffic enforcement in that area as well as others in the Borough.

Councilwoman Lee noted that the lighting at the crosswalk near Meridian had been very successful and they were thinking about adding that type of lighting at three other areas. She said she had noted many traffic issues as she had been walking through town and said they would be stepping up enforcement. She also said she had been informed that some of the GPS programs gave incorrect information regarding some illegal turns and the manufacturers had been contacted to try to get it corrected.

Councilman DuPont also reported that in the November 5<sup>th</sup> General Election, there would be a question on the ballot to call for raising New Jersey's minimum wage from \$7.25 to \$8.25 per hour. He noted that the minimum wage had not been increased since 2005. He asked that the Council pass a resolution calling for the passage of the issue. He reviewed the positive impact a raise in the minimum wage would have on the economy.

Mayor Menna agreed and said it was the right thing to do. The Mayor also reported on his participation in a cooking event at the Count Basie Theater and thanked the Board of Trustees for allowing the event.

#### **COMMUNICATIONS AND PETITIONS**

Mayor Menna read a request from Andrew Siciliano 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 were declared approved.

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

None.

#### **ORDINANCES – First Reading**

Mayor Menna read, "An Ordinance of the Borough of Red Bank, County of Monmouth, New Jersey Amending and Supplementing Chapter V, "Animal Control" Adding New Section 5-5, "Feral Cats."

Councilman DuPont offered a motion to adopt the ordinance on first 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 were declared approved.

Public hearing and final adoption to be held September 25, 2013.

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

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."

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

Martin McGann said he had served on a Council and understood the process. He said once an ordinance was passed, the Borough was bound by it for a very long time. He said the proposed ordinance would affect many business properties in the Borough. He said, essentially, all business zones in the Borough touch residential zones. He said he understood the Council's desire to protect residents but said the ordinance would be onerous on people who wanted to develop their property with a drive through. He asked if the Council was concerned about the noise that would emanate from a drive through facility or if it was the traffic issues. In regard to noise, he continued, there was both a state and local ordinance, governing the issue that could be enforced. He outlined the difference between different types of business drive through facilities. He also noted that many benefits that the service offered to many segments of the community such as the handicapped and elderly. He suggested there were other ways to regulate the matter. He again reviewed the number of zones that back up to residential properties. He said there

would be a very heavy burden on the property owners for an approval. He asked them not to rush into the matter and to step back and study it further.

Attorney O'Hern clarified that the ordinance may be onerous on future applications but it would not affect current applications.

Mr. McGann agreed but also noted that if a property owner wanted to modify a drive through in the future, they would be bound by the ordinance.

Russ Crosson—Shrewsbury Avenue/Drs. Parker Blvd—said he felt the proposed ordinance would be difficult for him and the property he owned.

Mayor Menna asked if he did not already have approval for a shopping center on the location.

Mr. Crosson said things had changed for his business, partly due to the PLAs that had been discussed earlier. He said one plan may call for the addition of a bank that would include a drive through. He said he had also had discussions about putting a drive through in for his coffee store. He said one reason he had pulled the plans on the shopping center was because of the large cost for the Borough's professionals to review his plans. He asked the Council to look at the matter because it was too expense for the average person. He said he was against the idea of a blanket ordinance that would cover every piece of property in the Borough and asked them to look at the issue on an individual basis as plans come in.

Monica Boscarino—Garfield Place—asked if there was a setback ordinance currently in effect that would have an impact on a drive through.

Attorney O'Hern said there was no such ordinance specifically applicable to drive-throughs but noted there were general set back ordinances.

Art Zeimanis—Grant Place—said he appreciated the comments of the previous speakers but said he strongly encouraged the Council to adopt the ordinance. As a longtime resident, he said he had always found Red Bank to be a cohesive, family-oriented town where kids could ride bicycles and residents could walk. He noted that Councilman DuPont had earlier addressed pedestrian issues in town and noted drivers were not obeying State laws. He noted that Mr. McGann had said drive-throughs were a thing of the future and that we should worry about the elderly and handicapped. He suggested that a drive through close to a residential area would endanger children, elderly and handicapped persons in the area. He said he thought it was a quality of life issue and he encouraged adoption.

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

**ROLL CALL:**

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

**NAYS:** None

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

Councilman DuPont noted that all they were amending was the definition of a drive through. He said Red Bank was different from other communities because the neighborhoods were so close to the business districts. He noted adjacent towns that had drive-throughs that were not next to residential areas. He noted that the Council had always protected neighborhoods because they were so close. He noted that many businesses were a walkable distance from residences which was an attraction that Red Bank had always had. He said they had made neighborhoods a priority and the proposed ordinance went along with that. He said the matter had been well thought out by the Mayor and said it had been evaluated by the Borough's professionals. He said he thought they had acted with due diligence and that it was a statement that the Borough's neighborhoods were extremely important to them. He thanked the Mayor for his foresight on the matter.

Councilwoman Lewis asked if, in the future, someone had a proposal for a project that had a drive through, would there be no consideration.

Mayor Menna said that was not the case and said the application would have to go before the Zoning Board of Adjustment and would require five affirmative votes to be approved.

Attorney O'Hern clarified that they would not be prohibiting drive throughs but would be limiting the locations with respect to proximity to residential zones. He said a prohibited use would be a much high standard to overcome.

Councilman Murphy said he agreed that they shouldn't be allowed next to residential zones, but questioned the distance of 100 feet. He said he thought the ordinance was smart but thought the distance would be prohibitive.

Attorney O'Hern said the ordinance had been reviewed by the Zoning Officer and the Planner and said he understood his concerns with the distance but said they felt that was the appropriate distance to protect the residential zones.

Councilwoman Lee asked Councilman Zipprich if the matter had come up at the Planning Board.

Councilman Zipprich said it had not come up recently.

Councilman Murphy said he thought more drive throughs would be coming in the future and reviewed some of the newer recent facilities in neighboring towns. He said he also understood the issues with residential neighborhoods. He said he was happy to hear the Attorney said that had reviewed the issue of the 100 feet.

Attorney O'Hern also said the ordinance only covered pure residential zones and not mixed use zones. He also noted that these types of businesses were only permitted in certain areas of town so the first step of an application was that the business would have to be a permitted use in the zone.

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 were declared approved.

2013-20 Council President Murphy read "An Ordinance Amending and Supplementing Chapter VI, "Alcoholic Beverage Control," Section 6-4 "Regulations of Licenses" of the Revised General Ordinances of the Borough of Red Bank."

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

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

**ROLL CALL:**

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

NAYS: None

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

Councilman Murphy asked for the reasoning behind the ordinance. Mayor Menna explained that the existing ordinance prohibited the serving of alcohol before 11 am on Sundays and this ordinance would move it to 9 am which was consistent with the other days of the week.

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

**ROLL CALL:**

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

NAYS: None

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

**RESOLUTIONS**

13-212 Mayor Menna read, "A Resolution Spearheading Public Support to Compel Verizon to fulfill its Obligations to New Jersey Taxpayers and the Board of Public Utilities to Establish Full High Speed Internet Connectivity for all Municipalities throughout the State."

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

**ROLL CALL:**

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

NAYS: None

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

13-213 Mayor Menna read, "A Resolution Appointing Susan Milnes as Deputy Court Administrator."

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

**ROLL CALL:**

AYES: Lewis, DuPont, Horgan, Lee, Murphy

NAYS: None

ABSTAIN: Zipprich

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

**PROCLAMATIONS**

**PAYMENT OF VOUCHERS**

13-214 Mayor Menna read "A Resolution for Payment of Bills Amounting to \$2,349,063.13." 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**

**NEW BUSINESS**

**AUDIENCE**

No one appeared.

**EXECUTIVE SESSION**

13-215 The Attorney read a resolution to adjourn to executive session to discuss real property negotiations and personnel; no formal action to be taken.

Councilman DuPont offered a motion to adjourn to executive session to discuss contract obligations, seconded by Councilwoman Lewis. 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.

**ADJOURNMENT**

Councilman DuPont offered a motion, seconded by Councilman Murphy to adjourn from executive session and 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