

**MINUTES
REGULAR MEETING
MUNICIPAL COUNCIL – BOROUGH OF RED BANK
OCTOBER 23, 2013
6:30 P.M.**

PLEDGE OF ALLEGIANCE

ROLL CALL

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

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

APPROVAL OF MINUTES – October 9, 2013

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

ROLL CALL:

AYES: DuPont, Horgan, Lee, Murphy
NAYS: None

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

MAYORAL APPOINTMENTS

None.

REPORTS OF MAYOR AND COUNCIL MEMBERS

None.

COMMUNICATIONS AND PETITIONS

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

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

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

ROLL CALL:

AYES: DuPont, Horgan, Lee, Murphy
NAYS: None

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

ORDINANCES – First Reading

ORDINANCES – Public Hearing & Final Adoption

RESOLUTIONS

By Consent Agenda:

- 13-232 A Resolution Authorizing Change Order No. 1 Related to the Contract with Mark Woszczak Mechanical Contractors for the Lake Avenue Water Main Improvement Project.
- 13-233 A Resolution for Renewal of Membership in the Monmouth Municipal Joint Insurance Fund.
- 13-234 A Resolution Authorizing Release of Maintenance Guarantee Regarding Stavola Leasing, LLC, 39 Maple Avenue, Block 31, Lot 36.01.

- 13-235 A Resolution Authorizing Curfew for October 30 and 31, 2013.
- 13-236 A Resolution Authorizing Issuance of Club License No. 1340-31-046-001 (Monmouth Rugby Club).
- 13-237 A Resolution Approving Participation with the State of New Jersey Division of Alcoholic Beverage Control Program (Cops in Shops).

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

ROLL CALL:

AYES: DuPont, Horgan, Lee, Murphy

NAYS: None

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

PROCLAMATIONS

PAYMENT OF VOUCHERS

13-239 Mayor Menna read “A Resolution for Payment of Bills Amounting to \$578,247.70.”

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

ROLL CALL:

AYES: DuPont, Horgan, Lee, Murphy

NAYS: None

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

OLD BUSINESS

NEW BUSINESS

AUDIENCE

Christie O’Brien—51 Garfield Place—said she was present to discuss traffic measures that had been discussed at the previous Council Meeting. She distributed a printed presentation to the Council for their review.

Mayor Menna noted that he had called upon the neighbors to meet and discuss a proposal. He said he had noted that the Council would be amenable to receiving information and would pass it on to the Police and Engineer for further action by the Council. He also noted that they could not discuss anything in regard to a pending application before the Planning Board regarding Walgreens.

Ms. O’Brien said her presentation was purely regarding existing increased traffic in the neighborhood. She said they were asking for help to implement measures that they thought would help the situation. She noted that there were many children in the neighborhood and a lot of residents that walked their pets. She said there were also several professionals from a nearby office building that would walk the neighborhood during their lunch hours. She said people use the green traffic island and the RBC sports teams also use the neighborhood as a cut through. She noted that she had seen an increase in traffic in the neighborhood. She reviewed the principle points of the traffic plan being presented including some one-way street proposals and increased signage.

Mayor Menna thanked her for her efforts and thanked resident Art Ziemanis for following through on what the Council has asked him to do. He said they would distribute the proposal to the Police Department for an expeditious review. He said he felt the recommendations were reasonable. He said the Council was also in favor to implementing more four-way stop signs in several areas including the one being discussed. He said, unless there was an objection, the proposal would go directly to the Traffic Safety Department and he anticipated it would be on the agenda for the second Council Meeting in November.

A discussion followed regarding the meeting date for the second meeting in November which was scheduled for November 20th. It was determined that, due to a conflict with the annual League of Municipalities Convention, it would have to be moved. It was determined the meeting would be moved to Monday, November 25 at 6:30 pm and a resolution would be added to the agenda.

Councilman Murphy asked about the weight restrictions for vehicles on residential streets. Mayor Menna said they would look into that also.

Ms. O’Brien also noted that the proposal had 100 percent consensus of the residents in the area.

Gina Slater—14 Grant Place—reported that a lamp post had been damaged in a car accident about four or five years ago and had never been replaced which made it very dark on the street.

Mayor Menna directed Administrator Sickels to follow up with Public Works to look into the matter.

Mr. Sickels asked her if the base was still in place.

Ms. Slater said it was not and said the entire thing had been removed.

Councilman DuPont noted that he was meeting with JCP&L the following week and said he would bring it up there.

Paul Kinsella—12 West Lake Road—said he was also concerned about a parcel of land that was zoned for Highway Business and said it was the only parcel of that type that abutted a neighborhood. He requested that it be rezoned to a Professional Office zone.

Mayor Menna asked if it was part of the pending Planning Board application. Both Administrator Sickels and Engineer Ballard confirmed that it was.

Mr. Kinsella agreed that it was and asked if the Planning Board could be petitioned to make the change.

Mayor Menna said that once an application is pending they cannot make a change unless the status of the application changed.

He said that was what he was asking and said, if the status changes, he would like the board to know that that was their wish.

Cindy Burnham—71 Wallace—said she wanted to follow up on the issue of getting pay stations to display information on free parking on Sundays.

Councilman Murphy said they had been reprogrammed several weeks ago.

Ms. Burnham said she also wanted to discuss the Council's efforts to remove the Maple Cove lot and the 94 West Front Street lot from the Recreational Open Space Inventory (ROSI). She said it was not just an environmental issue but was one of fiscal responsibility and public trust. She asked if the Council would be following through with a Public Hearing on the matter. She reviewed letters between the Borough and the Department of Environmental Protection on the issue.

Administrator Sickels explained that a complaint had been made to the DEP that, because the property was listed on the ROSI, the parking had to be restricted to park users. He said Borough officials had met and discussed the matter with the DEP. He said a review of Council minutes and ordinances revealed that both properties had been purchased to be used as parking for the library. He noted that, if the Borough was to comply with the DEP order, the properties that had been purchased for library parking would not be able to be used for that purpose. He again noted that the complaint received by the DEP had been the driving force to request the removal of the properties from ROSI. He said they had asked for documentation of the intended use of the property, copies of the minutes, ordinances and bond ordinances which had all been sent. He said they had discussed with the DEP removing only the parking lot portion of the lot on Maple Avenue and the both pieces of the Library property which was under a deed restriction that did not allow it to be used for public gathering. He said the DEP had responded with a letter that said they agreed that the request was appropriate and gave the Borough guidelines on how to proceed. He said the Borough has not yet gotten around to holding the public hearing and said there were no plans to change the use of the properties other than removing the restriction that the parking could only be used for park use.

Ms. Burnham read from two letters from the DEP that said the Borough could still adhere to the DEP regulations by putting up signs that said "For Park or Library Use."

Mr. Sickels disagreed and quoted from a letter from the DEP that had said the Borough was responsible to make sure only Park users used the lot. He said that was why the Borough had investigated how to remove the restriction and was told they would have to remove it from the ROSI.

Ms. Burnham disagreed and reviewed her communications with the DEP including the fact that they would not entertain removing the Maple Cove area from the list.

Ms. Sickels noted that the Borough had agreed to include the Maple Avenue lowlands.

Ms. Burnham said the DEP had said the Borough could restrict the Maple Cove lot to park users and allot three spaces for general parking similar to the library lot that was for the library and the park.

Mr. Sickels noted that the library property was not a park and had been purchased for the sole purpose of providing parking for the library.

Ms. Burnham said the ROSI identified it as "Library parking lot and park."

Mr. Sickels noted that the addition of those properties to the ROSI had never been approved by the Council which was information that had been given to the DEP.

Ms. Burnham claimed that she had extensive information to support her claim that the properties were purchased and designated for conservation, recreation and open space. She again asked if there would be a public hearing.

Mayor Menna confirmed that there would be a public hearing and Ms. Burnham would be able to present her information at that time.

Mr. Sickels said, despite comments to the contrary, there had never been any discussion about selling either of the referenced properties.

Ms. Burnham claimed that the property had been appraised.

Mr. Sickels said the Borough had never had the property appraised.

Ms. Burnham said she had letters from Hovnanian offering to buy the property.

Mr. Sickels repeated that the Borough had never had an appraisal done on the property.

Mayor Menna asked about the letter from Hovnanian that Ms. Burnham was referencing.

Ms. Burnham said Councilwoman Lee had seconded it.

Councilwoman Lee asked Ms. Burnham what she was referring to.

Ms. Burnham said Hovnanian had sent a letter and there had been a resolution to allow Hovnanian to do contamination testing.

Councilwoman Lee noted that she had Ms. Burnham had had a conversations years ago where she had explained to Ms. Burnham that the Borough was not going to be selling the lot.

Mayor Menna and Administrator explained that Hovnanian owned the adjacent property that had had some contamination and the contamination had seeped onto the Borough owned property. It was further explained that they had sought permission from the Borough to have their environmental clean-up people go onto the Borough owned property to determine if there was contamination and to clean it up if there was.

Ms. Burnham again asked about the Public Hearing.

Mayor Menna said there would be a Public Hearing.

Ms. Burnham pressed for a date and Mr. Sickels said they did not know.

Sean DiSomma—28 Morford Place—said he had attended a Council meeting earlier in the year where the Council had discussed banning smoking in the parks. He said he thought he remembered Councilwoman Horgan saying she thought it would be a good idea because it would prevent cigarette butts from going into the river. He asked Councilmembers if they had been in the Navesink River in the area off of Sunset Avenue and said there was a bigger issue there than cigarette butts such as 55 gallon drums. He called ordinances to ban cigarettes and plastic bags “nutty ideas” when the Council has allowed 55 gallon drums and old construction equipment and materials to be dumped in the river not more than 50 feet from where people cast their line to fish. He asked Councilwoman Horgan how long these items had been in the river and, as liaison to the Environmental Commission, what she had done about it.

Administrator Sickels asked the Borough Engineer to review the Borough’s efforts over the past 10 years in regard to the site that was a former landfill.

Engineer Ballard said, beginning approximately 10 years ago, the Borough had applied to Monmouth County for Community Development Block Grant funding for the area. She said the program would have only given the Borough approximately \$100,000 for an eight acre site with extensive clean up needs. She said the County directed the Borough to the Hazardous Discharge Site Remediation Fund (HDSRF) program. She said, in order to qualify for the funding, the Borough had to deed restrict the property so it would be used for park land only which she said the Borough had done. She said the first phase was site investigation and reviewed what was involved with that process. She said the Borough was still involved in that process partially because there were a lot of people vying for a limited pot of money and the Borough had been doing the investigation through a series of contracts with the State.

Mayor Menna noted that Environmental Clean Up sites, whether Municipal or privately owned, were long term projects.

Engineer Ballard said they had identified the 55 gallon drums but the site was also a bald eagle foraging area and the Borough wasn’t even allowed to take samples without getting a permit. She explained that they would have to hire an expert from Fish, Game and Wildlife to review the situation. She said their report had to be presented to the State to determine if the contamination was bad enough to warrant disturbing the habitat to clean it up or if it would adversely affect the habitat to the point where the contamination should remain. She said that was the process the Borough was in at this point. She said they were wrapping up in Phase 4 of the investigation process and, to date, had been 100 percent funded from the State through the HDSRF program.

Administrator Sickels noted that that included the removal of the contaminated incinerator and smoke stack.

Councilman Murphy agreed and noted that the removal of the incinerator had been a big hurdle and was how the process started and the contamination testing had begun. He also noted that the Borough was obligated to eventually turn the area into a park or reimburse the State.

Mr. DiSomma estimated the smoke stack had come down four years ago and asked if anyone had alerted the State legislators to the problem.

Engineer Ballard said they had and noted that when the Borough submitted its most recent application they had been told they were in line for funding but a large Camden project came in and took most of the

funding. She said the legislators helped push the Red Bank project and they did get some funding but it took two years.

Mr. DiSomma asked if the Borough had asked any of the legislators to come to look at the site and make phone calls to Fish & Wildlife to expedite the process and allow them to take samples.

Ms. Ballard said the Borough had samples.

Mr. DiSomma asked if they could get someone to take the drums out of the water.

Mr. Sickels explained that they had experts reviewing the samples and were waiting for a determination to see if they can take the drums out or if they should leave them there.

Mr. DiSomma asked why no one had known about the situation.

Councilwoman Lee said Senator Beck was extremely well aware of it. She said the nature area on Locust Avenue was her “baby” and she was well acquainted with that riverbank.

Mr. Sickels noted that Senator Beck had written letters of support for all of the Borough’s efforts.

Councilman DuPont said everyone had been on board with respect to the clean-up. He said he appreciated the timing of Mr. DiSomma’s anger but said he needed to realize that the Borough had been committed to cleaning up the site for several years. He noted that the problem had been there a long time and it was this Council that decided to work to clean it up by working with Trenton to get funding and with the DEP to clean up the area while not disturbing the eagles nesting there.

Engineer Ballard told Mr. DiSomma he could help by talking to the legislators and asking them to put more funding into brownfields projects so there would be more money for cleaning up sites such as this. She added that it only takes one large site to take all the funding and leave smaller projects like this waiting in line.

Mr. DiSomma asked what the testing of the water had shown.

Engineer Ballard said the answer wasn’t that straight forward. She said when they find contamination, they have to identify the source so they have monitoring wells. She said they also have to look at tide cycles to determine if the water was bringing the contamination in or if it was coming from the ground to contaminate the water. She said it was a very sensitive process that took time and added that they cannot go back out and do samples until the DEP approves the report that the Borough’s professional had put together. She said she did believe the sampling was scheduled for within the next month.

Mr. DiSomma asked if water had been sampled.

Ms. Ballard said they had done some preliminary sampling.

Mr. DiSomma asked if that meant they did not know if it was contaminated or not.

Ms. Ballard said she could not give a good answer on that.

Councilman DuPont asked Mayor Menna how long that garbage dump had been in place.

Mayor Menna said it was over 100 years and remarked how happy the neighborhood was when the wrecking crew took down the smokestack. He said it had been a long and multi-tiered process and said it wasn’t going to be over in six months or even the next couple of years. He said part of the problem was that it was an extraordinarily expensive project and any municipality doing it would have to rely on State aid. He said, as Senator Beck had indicated, the legislators were able to do all of the lobbying on the Borough’s behalf but, at the end of the day, the people at the State had to make value decisions on how to apportion those funds. He said the important thing was that the Borough was moving forward and making progress. He added that anyone who had ever worked with the DEP knew that it was a long and cumbersome process.

Councilman Murphy noted that it was not only the site of the incinerator but also of a landfill and as the years went by the Borough had been required to change the way they had removed garbage. He said the property had sat for a long time and taking down the smoke stack was a fraction of what had happened at the property. He added that everything that had been done had been paid for by the State. He noted the testing process that went on before the removal the smoke stack and the testing of the ground around it. He also discussed the struggle for funding considering the many projects that were competing for it. He said they have had a lot of discussion about the design of the park that will ultimately be built at the site and noted that it would also be paid for with State funds as well. He noted that Senator Beck had been very supportive of Red Bank projects and cited several examples. He said the Council had been on top of the clean-up issue but they were waiting for funding from the State.

Councilman DuPont noted that the Borough had worked with both Senator Beck and Governor Christie to work toward the clean-up of the Borough’s waterways. He also noted that he had read recently the Fair Haven was considering banning smoking in their parks.

Mayor Menna confirmed that they had but said Red Bank had not enacted anything as of this date.

No one else appeared for public comment and Mayor Menna noted that there was an added resolution.

13-238 Mayor Menna read, "A Resolution Amending Time and Place of Borough Council Meetings for 2013."

Councilman Murphy offered a motion to approve the resolution, seconded by Councilman DuPont. Mayor Menna asked if anyone from the public had any comments on the resolution. No one appeared.

ROLL CALL:

AYES: DuPont, Horgan, Lee, Murphy

NAYS: None

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

EXECUTIVE SESSION

ADJOURNMENT

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

ROLL CALL:

AYES: DuPont, Horgan, Lee, Murphy

NAYS: None

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

Respectfully submitted,

Pamela Borghi