

**MINUTES
REGULAR MEETING
MUNICIPAL COUNCIL – BOROUGH OF RED BANK
SEPTEMBER 26, 2012
6:30 P.M.**

PLEDGE OF ALLEGIANCE

ROLL CALL

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

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

ABSENT: Mayor Menna.

SUNSHINE STATEMENT

Council President Murphy 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 12, 2012.

WORKSHOP

APPROVAL OF MINUTES – September 12, 2012

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

ROLL CALL:

AYES: Zipprich, DuPont, Horgan, Lee

NAYS: None

ABSTAIN: Lewis

There being four ayes, no nays and one abstention, the minutes were declared approved.

MAYORAL APPOINTMENTS

COMMUNICATIONS AND PETITIONS

Council President Murphy read a request from Parker Family Health Center to hang a banner on Broad Street from November 1, 2012 to November 30, 2012 to advertise their achievement of having over 100,000 patient visits since the year 2000.

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

ROLL CALL:

AYES: Lewis, Zipprich, DuPont, Horgan, Lee

NAYS: None

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

Council President Murphy read a request from RiverCenter to hold the Santa Express and parade down Monmouth Street to Broad Street to coordinate with the downtown tree lighting and concert on November 23, 2012, 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

NAYS: None

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

Council President Murphy read a request from RiverCenter to hold Holiday Horse & Carriage Rides through the business district on Saturdays from November 24, 2012 to December 22, 2012 from 1 p.m. to 5 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

NAYS: None

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

Council President Murphy read a request from RiverCenter to hold Holiday Harmonies on Saturdays from November 24-December 22, 2012 from 12 p.m. to 3 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

NAYS: None

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

Council President Murphy read a request from Navesink Maritime Heritage Association to hold a paddle event in collaboration with Two River Theater on Saturday, October 13, 2012, with a rain date of Sunday, October 14, 2012, approved by the Special Events Committee.

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

ROLL CALL:

AYES: Lewis, Zipprich, DuPont, Horgan, Lee

NAYS: None

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

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

Council President Murphy opened the public comment portion of the meeting and asked if anyone would like to speak.

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

ROLL CALL:

AYES: Lewis, Zipprich, DuPont, Horgan, Lee

NAYS: None

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

ORDINANCES – First Reading

ORDINANCES – Public Hearing and Final Adoption

2012-18 Council President Murphy read, “AN ORDINANCE OF THE BOROUGH OF RED BANK, MONMOUTH COUNTY, AMENDING CHAPTER XX “WATER AND SEWER”, SECTION 20-8, “SEWER CONNECTION FEES” AND SECTION 20-9, “WATER CONNECTION FEES.”

Councilman DuPont offered a motion to open the public hearing, seconded by Councilman Zipprich.

ROLL CALL:

AYES: Lewis, Zipprich, DuPont, Horgan, Lee

NAYS: None

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

Council President Murphy opened the public hearing and asked if anyone would like to speak.

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

ROLL CALL:

AYES: Lewis, Zipprich, DuPont, Horgan, Lee

NAYS: None

There being five 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

NAYS: None

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

RESOLUTIONS

By Consent Agenda:

- 12-192 A RESOLUTION AUTHORIZING CHANGE ORDER NO. 2 AND FINAL RELATED TO THE CONTRACT WITH D&D TRENCHLESS SOLUTIONS, INC. FOR THE SHREWSBURY AVENUE WATER MAIN IMPROVEMENTS PROJECT.
- 12-193 A RESOLUTION AUTHORIZING THE ISSUANCE AND SALE OF UP TO \$8,299,000 OF GENERAL OBLIGATION BONDS, SERIES 2012, OF THE BOROUGH OF RED BANK; MAKING CERTAIN COVENANTS TO MAINTAIN THE EXEMPTION OF THE INTEREST ON SAID BONDS FROM FEDERAL INCOME TAXATION; AND AUTHORIZING SUCH FURTHER ACTIONS AND MAKING SUCH DETERMINATIONS AS MAY BE NECESSARY OR APPROPRIATE TO EFFECTUATE THE ISSUANCE AND SALE OF THE BONDS.
- 12-195 A RESOLUTION AUTHORIZING TAX REFUNDS DUE TO OVERPAYMENT OF TAXES DUE TO 100% DISABLED VETERAN'S EXEMPTION.
- 12-196 A RESOLUTION APPOINTING JENNIFER DIODATO AS RCA PROGRAM COORDINATOR.
- 12-197 A RESOLUTION RELEASING PERFORMANCE BOND AND ACCEPTING MAINTENANCE GUARANTEE REGARDING PHS REALTY, INC., 28 RIVERSIDE AVENUE, BLOCK 6, LOTS 11, 12.01 AND 19.
- 12-198 A RESOLUTION RELEASING MAINTENANCE GUARANTEE POSTED BY CORINTHIAN COVE A/K/A 78 WEST FRONT STREET ASSOCIATES WITH RESPECT TO PROPERTY LOCATED AT 78 WEST FRONT STREET, BLOCK 8, LOTS 6 AND 6.01.
- 12-199 A RESOLUTION OF APPROVAL TO SUBMIT A GRANT APPLICATION AND EXECUTE A GRANT AGREEMENT WITH THE NEW JERSEY DEPARTMENT OF TRANSPORTATION FOR THE LOCUST PLACE IMPROVEMENTS PROJECT.

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

ROLL CALL:

AYES: Lewis, Zipprich, DuPont, Horgan, Lee

NAYS: None

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

12-194 A RESOLUTION AUTHORIZING RELEASE OF A PORTION OF THE PERFORMANCE GUARANTEE REGARDING COUNT BASIE THEATRE, BLOCK 43, LOTS 3, 4 AND 7.

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

ROLL CALL:

AYES: Lewis, Horgan, Lee

NAYS: None

ABSTAIN: DuPont

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

REPORTS OF MAYOR AND COUNCIL MEMBERS

Councilman DuPont reported that the Borough would be holding the first electronic tax sale in the State of New Jersey. He said the Borough participation had been approved by the Director of the Division of Local Government Services. He asked CFO Lapp to explain what was involved in the process. She said the electronic tax sale would be held Monday, October 29. She explained the background and process of the Borough's tax sales noting that they have been held annually. She added that an internet based sale would provide a larger pool of potential investors which could mean a lower interest rate charged to the home owner and would also mean that fees could be assessed to the individual properties rather than the general tax base. She said Red Bank was very proud to be the first town to do this and it was a benefit to the residents.

Councilman DuPont thanked Ms. Lapp and her department for the bold steps they had taken to hold the first electronic tax sale in the State. He said he thought that fact that the State approved it reflected positively on the Borough and its Administration.

Councilman DuPont also reported that the Mayor's Wellness Campaign had heard from the Governor's Office that they were happy for the success of the Red Bank Campaign. He noted that Melissa Kostinas, who oversees the Mayors' Wellness Campaign for the State, would be attending the October 20 Community Kick Start Walk in Marine Park.

Councilman Zipprich reported that the Public Utilities Committee had met the previous week to review the progress on the road program and issues concerning the water utility. He said the Borough Engineer

had explored grants for potential upgrades to the utility in the future. He said the Front Street project was progressing nicely and the Engineer was keeping in constant contact with the County. He said the paving of Front Street should commence the following week. He said the Monmouth Street project was also underway near Bridge Avenue and would be working its way east toward Maple Avenue. He also reported that the County had responded to the Borough's request to upgrade the pedestrian crossings on Shrewsbury Avenue and Drs. Parker Boulevard. He said he wanted to offer special thanks to Freeholder Arnone for his assistance with the request.

Councilman Zipprich also reported that both the Historic Preservation and Shade Tree committees had met the previous week. He said Historic Preservation was still working on the details for their gathering on November 10. He reported that the Shade Tree Committee had identified a nursery that they were working with to plant trees to replace those that had been removed.

Councilwoman Lewis reported that the Parks and Recreation Committee had met on the 19th of September and discussed park maintenance and completed repairs. She said the Borough Engineer had been in attendance and gave an update on the turf project. She said they had also discussed potential new programs. She said she also wanted to congratulate Parks and Recreation Director Memone Crystian and the entire Parks and Recreation team for a hugely successful summer camp. She noted that this was the first year that there had been no complaints and she anticipated bigger numbers next year.

On behalf of the Vision Committee, she continued, they had successfully held three concerts and said she wanted to thank Wells Fargo and Morgan Stanley Smith Barney for their sponsorship. She added that without their help, the committee would not have been able to get it done. She said the community loved the concerts and would like to see more events in the Shrewsbury Avenue venue. She said the Vision Committee would be reviewed the events and getting started on activities for next year. She thanked the Committee members and the Borough's CFO for their assistance and said it was a full team effort.

Councilwoman Horgan had no report.

Councilwoman Lee reported that there would be a Library Board meeting the following day. She said the Library was offering extend programming and noted that it was "Join Your Library" month. She encouraged everyone to join.

Councilwoman Lewis said she wanted to let Councilman DuPont know that she was very excited about the Wellness Initiative and said he and the Committee had done a great job.

Councilman DuPont thanked her and noted that there was a lot of energy involved including children from the Borough schools. He said it was all encompassing. He said the employees were enjoying the four month membership to the Y.

Councilman Zipprich said he also thought it was great to see everyone participating in the Wellness Program.

Council President Murphy reported that the Volunteer Fire Department would be holding the Annual Fire Prevention Expo on Sunday, October 7 from 11 am to 3 pm in the White Street Parking Lot. He said the rain date would be October 14. He said it was a great day as the firefighters offer information on what they do including a demonstration of the infrared cameras they use.

PAYMENT OF VOUCHERS

12-200 Council President Murphy read "A RESOLUTION FOR PAYMENT OF BILLS AMOUNTING TO \$1,019,526.04."

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

ROLL CALL:

AYES: Lewis, Zipprich, DuPont, Horgan, Lee

NAYS: None

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

PROCLAMATIONS

OLD BUSINESS

NEW BUSINESS

AUDIENCE

Cindy Burnham—146 Harrison Avenue, Fair Haven—said she wanted to specifically address Councilwoman Horgan. She said Councilwoman Horgan had made some statements recently in numerous publications regarding the new Ad Hoc Community Garden Committee. She said she found the comments disturbing, irresponsible and misleading to the public. She said she would not be addressing every statement but said she wanted to address two. She said the first statement was in the Hub and said Ms. Horgan had said that the Council had had to establish the Ad Hoc Committee because the Garden had been in discussion for more than a year and, as yet, nothing had been planted. Ms. Burnham said, as the liaison to the Environmental Commission, Ms. Horgan should be aware that October 4, 2010 was when they had first brought the idea to the Environmental Commission. She said that was when the Committee voted to make them a subcommittee which, she added, they did not do lightly.

Councilman Zipprich asked her to repeat the date and clarified that she was referring to the group's original plan to plant a garden at the property adjacent to the library.

She said the Environmental Commission had voted to make them a subcommittee on December 10, 2010. She said the members had visited 62 Borough owned properties, 21 of which had been designated as vacant lots. She said they had produced a 21 page proposal that she said answered everything that could be asked including maintenance and safety and listed the pros and cons of each site. She said the property they had come up with was 94 West Front Street. She said the Council had said no to that property.

Councilman Zipprich noted that he and Councilwoman Horgan had taken the time to visit all of the proposed sites.

Ms. Burnham asked the Councilmembers to let her finish her statement before they responded. She continued by saying that, after the Council had repeatedly said no to placing the garden at 94 West Front Street, the group had looked at private lots and churches at the Council's suggestion. She said they had returned to the Council because those properties had said no. She said she also looked at schools but said they had also said no. She said the Council had asked the group to come back with two alternatives which they had but the Council had said no. She said on March 28, 2012, unbeknownst to them, the Council had passed a resolution stating that Marion Street was to be the site of the Community Garden. She said they had known nothing about it and said she felt there should have been more transparency. She said, as the liaison to the Environmental Commission, Councilwoman Horgan should have let them know the Council was coming forward with the resolution. A month later on April 27, she continued, they had met with Councilwoman Horgan, Councilman Zipprich, Councilwoman Lee and Public Works Director Watson to discuss costs and garden procedures. She said there were costs incurred in using the Marion Street site that the group had not been prepared for. She said they had to review the situation and they had contacted Gary Watson two and a half months later to ask him to remove the asphalt. She said she was told that Mr. Watson would have the asphalt removed and there would be a charge of \$35 per yard. She said she had emailed Mr. Watson on July 27 regarding the asphalt removal. She said she had emailed him again on August 1 to ask about the asphalt. She said the first week of August the asphalt had been "mysteriously" removed.

Councilman Zipprich noted the Ms. Burnham had been copied on all of the correspondence that went with the removal of the asphalt.

She said during that first week of August, after the asphalt had been removed, they had staked the garden, laid out plots and tilled. She said they also developed flyers and took them around the neighborhood. She said they also put together application packets that were the same as those in neighboring municipalities. She said she also established a bank account, put out press releases and had leased out four plots. She said they were ready to plant. She again questioned Councilwoman Horgan's statement that the Borough had to establish an Ad Hoc Committee because nothing had been planted and again stated that they had been ready to plant and it was the Council that stopped them.

Council President Murphy asked Ms. Burnham why the Council had stopped them. She said they had gotten an email from Administrator Sickels stating that they either had to be a 501c3 and pay insurance or they would have to operate under the Parks and Recreation Department and become a Borough program. Ms. Burnham said she felt that matter should have been discussed when they had the meeting with Public Works Director Watson and the members of Council.

She said another remark she wanted to bring to their attention was that Councilwoman Horgan was quoted in the Patch as saying the Borough finally had an Ad Hoc Community Garden Committee with the notation that she added "don't faint" and had said it "with laughter." She said she felt this was insensitive and disrespectful to the residents who had worked on the garden.

Councilman Zipprich asked her to get to her point and she accused him of bullying and said she wanted to be treated with respect.

She summarized that the garden was in place, the volunteers were ready to go ahead and it was now a Borough program. She said the Ad Hoc Committee that was created was, for the most part, the same people that were on the original Committee. She said she hoped that now that the Borough had control, they could all work together in a civil and respectful way to make the garden a success for the residents of Red Bank and not use it as a political football.

Administrator Sickels said the Council had informed the public that, despite quite a few recommendations for other sites, the Council had decided that the Marion Street lot would be the most appropriate to start a community garden. After that decision, he continued, there was very little, if any, representation to the Council that the Committee was going to go forward at that location. He said, in fact, he believed that people had come to Council meetings subsequent to that and argued for locations that had been requested and denied in the past. He said he had spoken with residents of Marion Street who had told him that Ms. Burnham had personally gone door to door to tell them that the lot was an inappropriate site. Ms. Burnham said that was because she thought it was. Mr. Sickels noted that Ms. Burnham had continued to fight against the site from March until August. He noted that Ms. Burnham was nodding in acknowledgement. Up to that point, he continued, the Borough had no clue that the Committee planned on going forward. He said it wasn't until Borough Officials had seen fliers and action at the site that it became apparent that they were interested in going forward. He said at that time there was nothing in place to formally acknowledge the committee and there was no proof of the 501c3 status. He said it was at that point that he wrote the Environmental Commission a letter regarding these issues.

He said after consultation with the Borough Attorney, the CFO, Department Heads and the Council Committees for Public Works, Parks and Recreation and the liaison to the Environmental Commission, they realized the need for an official committee. He noted that he had said in his letter that the Environmental Commission had no authority to appoint an Ad Hoc Committee of people from outside of the Commission.

Ms. Burnham asked why Mr. Sickels had not said that a year and a half ago. He said it was because they had appeared as a group of citizens proposing a Community Garden and hadn't gotten to the point that the Borough was involved. He said they had, in fact, told the Council that if they did not approve the West Front Street location, they wanted no part of it. He questioned her characterization that there was a delay on the Borough's part was not true. He said the Council had chosen a site and the indications were that the group was not in favor of the site. He said once there was agreement on the site, Borough Officials had moved quickly to get everything in place. He reviewed the steps that had been taken and the meetings and ongoing discussions that had been held. He said he ultimately had received a letter from the individual acting as Secretary to their group which he believed he had received in late August or early September. He again said he thought her characterization was unfair.

In regard to the other comments, he said he found it surprising that she would take issue with comments said in jest from a Council person considering some of the comments she had made in the local press which had not been based in fact or were equally unfair.

He summarized that, as soon as it came to his attention that they wanted to move forward, he had sent the letter to the Environmental Commission asking to meet and coordinate the effort.

Councilwoman Horgan said she did not think Ms. Burnham had appreciated the fact that the Community Garden would be going on Borough property. She said the Council had responsibilities and could not let Ms. Burnham do anything she wanted. She Ms. Burnham had started setting things up before anyone was ready to move forward. She noted that the Mayor was the only person who had the power to appoint committee members or to set up a committee. She said Ms. Burnham had gone to the Environmental Commission and she believed they had misunderstood and allowed her to set up a subcommittee. She again noted that neither the Committee nor Ms. Burnham had that authority. In regard to Ms. Burnham's comments about being respectful and not using the issue as a political agenda, she accused Ms. Burnham of making statements in the papers that were anything but respectful.

Councilwoman Horgan noted that when the Committee that been authorized by the Mayor had met with Ms. Burnham and Mr. Sickels, Ms. Burnham had not been in agreement with anything. She noted that the Borough had gone out of its way to do everything that they had originally asked for including providing water, removing the asphalt and providing the liability insurance. She asked Ms. Burnham what it was that she did not like about the project at this point.

Councilman Zipprich said he wanted to add that the day he and Councilwoman Horgan had gone out and surveyed all of the properties that had been on Ms. Burnham's list, they had gone to each plot and when they had arrived at the Marion Street parcel, Ms. Burnham had stood on the edge of the property and told them that if they chose to have the Community Garden there, she would not be involved.

Ms. Burnham said she did not remember that and again said she thought that when they had met with Mr. Watson and the members of Council to discuss the costs and procedures of the garden that the 502c3 issue should have come up. She said she had sent an email saying they were not prepared to cover the costs and noted that the other three sites they had proposed were diggable and there would be no cost involved. She said their donations had been taken away because the people that were going to donate didn't want to donate toward the Marion Street location. She said she didn't think two and a half months was enough time to organize funds and get themselves together.

She said she felt that when she had emailed Mr. Watson on July 27, he should have apprised Councilwoman Horgan but she did not receive an email from Councilwoman Horgan until August 13. She said she would not be using the garden but said it was for the people of Red Bank. She said no other community gardens in the area were operated as town programs.

Mr. Sickels said that was not true. He said Tony Sloan, the individual they had sought out to help them develop the garden, had told Ms. Burnham at a meeting where Mr. Sickels and Recreation Director Memone Crystian had been present that that was exactly how it was done in other towns and that the only reason this hadn't gotten off the ground was because Ms. Burnham had a personal agenda.

Ms. Burnham disagreed saying they had voted as a committee and said Mr. Sloan sometimes gets mixed up. She said she had investigated Shrewsbury Borough, Oceanport and, Long Branch.

Attorney O'Hern said he had spoken to the Administrator in Shrewsbury and he said they ran their garden exactly the way Red Bank had set it up.

Ms. Burnham said that was because the town provided a budget under the Open Space Fund but they did not operate under Parks and Recreation.

Attorney O'Hern reiterated what Councilwoman Horgan had said again noting that it was Municipal property. Ms. Burnham said so was Shrewsbury's garden. Attorney O'Hern agreed and said their garden was run under the auspices of the Borough and had not handed the project over to a private group. He said the situation was a classic example of no good deed goes unpunished and said Red Bank officials

have been trying to accommodate Ms. Burnham for a long time and when it got to the point that it was going to move forward he had given the legal advice that it would have to be done one of two ways.

Ms. Burnham said Red Bank didn't care what other towns did and they were only going to do it that way.

Attorney O'Hern said that was not true because he had spoken to the Administrator in Shrewsbury and his advice to Red Bank was based on that discussion.

Ms. Burnham asked if he knew that they had a budget from the Open Space Fund. He said that was irrelevant and it was due to the fact that they had Open Space for the garden. Ms. Burnham noted it was Municipal property. Attorney O'Hern agreed that it was but noted that it was also Open Space.

Council President Murphy thanked Ms. Burnham for her comments.

Councilman Zipprich said he wanted to compliment the Borough and RiverCenter on Oysterfest which had been a wonderful event that was held the previous weekend. He commended the volunteers who assisted with the event.

Council President Murphy said he wanted to say that he knew that the road had been long and hard with the Community Garden but he knew that Councilwoman Horgan, Councilman Zipprich and Councilwoman Lewis along with the Parks and Recreation Committee had spent a lot of time working on the issue over the last two years. He said Mr. Sickels and Attorney O'Hern had made a good point that no good deed goes unpunished. He despite what anyone might say, the group had spent a lot of time and the issue and had done a stellar job in putting it together.

Suzanne Viscome—23 Arthur Place—said she had a question about political signs placed on public property. She said she wanted to know why they were not following the rules and said she had seen signs at the football field. She also said she had been told that Public Works would be responsible for picking them up and she questioned the fact that taxpayers' money would be used for the task. She said she had also heard from the Superintendent that their signs were at the Primary School and the school had had to pay a janitor to remove them. She said she understood that volunteers may have place the sign but said the candidates were ultimately responsible. Council President Murphy said he would look into it.

Councilman Zipprich clarified that Ms. Viscomi could contact Public Works regarding improperly placed signs and they would address the Chair of the party. He also added that it is an ongoing issue for both parties.

Councilman DuPont said he had picked up a couple of signs that were in public areas and had thought he had gotten them all. He told Ms. Viscomi if she saw any others she should feel free to call him and he would pick them up immediately.

EXECUTIVE SESSION

ADJOURNMENT

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

ROLL CALL:

AYES: Lewis, Zipprich, DuPont, Horgan, Lee

NAYS: None

There being five 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