

**MINUTES
REGULAR MEETING
MUNICIPAL COUNCIL – BOROUGH OF RED BANK
OCTOBER 10, 2012
6:30 P.M.**

PLEDGE OF ALLEGIANCE

ROLL CALL

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

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

SUNSHINE STATEMENT

Mayor Menna requested the minutes reflect that, in compliance with Public Law 1975, Chapter 231 (Open Public Meetings Act), notice of this meeting has been provided by notifying the Asbury Park Press, the Two River Times and the Star Ledger and by placing a notice on the bulletin board and filing same with the Borough Clerk on January 12, 2012.

SUSPEND REGULAR ORDER OF BUSINESS

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

ROLL CALL:

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

NAYS: None

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

A representative of the Red Bank Flavour Culinary Alliance asked that the check presentation be postponed until all parties were present.

RESUME REGULAR ORDER OF BUSINESS

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

ROLL CALL:

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

NAYS: None

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

WORKSHOP

Best Practices Inventory—Councilman Dupont explained that the State used certain criteria to determine eligibility for State Aid. He said CFO Lapp had completed a Best Practices Inventory and determined that the Borough had met the criteria. It was noted that there was a resolution on the agenda to acknowledge her efforts. Mayor Menna complemented CFO Lapp on her diligence and said it was a pleasure to work with her.

Letter in Opposition to Reduction of Business Personal Property Tax—Mayor Menna explained that the League of Municipalities was urging municipalities to adopt resolutions in opposition to a new taxing authority for Personal Property Tax which was being considered by the Legislature.

Valet Parking on Bridge Avenue—Mayor Menna noted that there was going to be some exciting new developments on Bridge Avenue and said the businesses and entertainment centers in conjunction with RiverCenter and Borough Officials had been meeting to come up with a plan to address valet parking in the area. He thanked everyone for being wonderfully open minded asked Administrator Sickels to address the issue of Valet Parking in that area. He noted that the idea currently works on Broad Street and the Borough would be following through with a projected program on Bridge Avenue. He asked Administrator Sickels to provide more details.

Mr. Sickels said Councilman Murphy and Police Chief McCarthy had met with businesses owners in the affected area. He noted that business owner Danny Murphy had been outspoken on potential parking problems with pending construction. Mr. Sickels said the business owners, in concert with RiverCenter and Borough Officials, had proposed a temporary Valet Parking program similar to the one that had been put in place on Broad Street. He reviewed how the program would work and noted it was outlined in the resolution.

Mayor Menna said he wanted to express publicly the generous contributions of Eric Witmondt of Woodmont Properties, Chris Cole of Terranomics, the Rechnitz family of the Two River Theater, the Sourlis family of the Galleria and NJTransit. He said without their cooperation, which was generously

and freely given, the program could not have come to fruition. He said it was an example of Red Bank working together for Red Bank's future.

Councilman Murphy said he agreed with the Mayor's statement about the cooperation of all of the business people in the area. He also thanked Councilman Zipprich, Public Works Director Watson, Police Chief McCarthy and Administrator Sickels for their participation. He said, considering the pending construction, the plan seemed like a good remedy and the Borough was happy to help.

Councilman Zipprich thanked Councilman Murphy for his leadership and said he also wanted to thank those that had already been mentioned. He added that it was nice to see the business leaders in the Community come together and solve what they considered a perception problem. He commended Danny Murphy for taking the leading and rallying everyone to the cause.

Mayor Menna said, unless there was an objection from anyone on Council, the authorizing resolution would be on this agenda for action. He noted that the Borough had worked quickly to help with the situation since it had come to their attention at 3 o'clock that afternoon.

SUSPEND REGULAR ORDER OF BUSINESS

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

ROLL CALL:

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

NAYS: None

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

Check Presentation by Red Bank Flavour Culinary Alliance

Valerie Aufiero and several members of the Red Bank Flavour Culinary Alliance came forward to present checks to benefit Lunch Break and the Red Bank Middle School Athletic Foundation from funds that were raised at a recent fund raiser the group had held. Each group received a check in the amount of \$3,350.

Councilman DuPont thanked the Alliance members for the donations and noted the preparation that had gone into the fund raising event. He explained the impact the donations would have for the organizations and how the donations would be used. He added that the funds were truly a gift and congratulated the Alliance members on a wonderful event.

Ms. Aufiero said they were planning another similar holiday event on November 29. Mayor Menna noted that all of the Council members had attended the previous event and he noted how much he had enjoyed it.

RESUME REGULAR ORDER OF BUSINESS

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

ROLL CALL:

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

NAYS: None

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

APPROVAL OF MINUTES

MAYORAL APPOINTMENTS

Mayor Menna appointed the following to the Library Board of Directors:

Ann Tardy, 27 Madison Avenue, to the Library Board of Directors for an unexpired term expiring 12/31/15.

James Willis, 51 Harrison Avenue, to the Library Board of Directors for an unexpired term expiring 12/31/14.

M. Allen McGinley, 182 Manor Drive, to the Library Board of Directors as Mayor's Alternate for an unexpired term expiring 12/31/12.

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

ROLL CALL:

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

NAYS: None

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

REPORTS OF MAYOR AND COUNCIL MEMBERS

Councilman Murphy reported that the Fire Expo originally planned for October 7 would be held on the rain date of October 14 on the White Street Parking Lot from 11 am to 3 pm. He said the Red Bank Volunteer Fire Department would be offering demonstrations on Fire Safety at the event. He also noted that it was Fire Prevention Week and said there was a proclamation on the agenda for that. He also reported that Navesink Hook & Ladder had held golf outing fund raiser the previous day and that it had been a wonderful time.

Councilwoman Lee had no report.

Councilwoman Horgan reported that the Community Garden Committee had met with Administrator Sickels, Public Works Director Watson and Recreation Director Crystian to review and agree upon the application process. She said the Committee felt they should work on preparation for 2013. She reviewed what the Borough responsibilities would be in the application process and also what the Committee would be responsible for. She also noted that Mr. Watson had provided a list of materials that would be needed to provide water to the site and a purchase order had been issued. She said work would be completed in the next week or two. She said the Committee would be installing rain barrels and compost containers at the site to reduce water consumption and minimize waste.

She also reported that the Environmental Commission had met the previous night. She said Committee member Andres Simonsen would be presenting at the Annual Association of New Jersey Environmental Commissions Environmental Congress on October 20th at Middlesex County College in Edison. She added that he would be part of a panel that would be discussing reducing vehicle emissions. She noted that Environmental Commission Chair Laura Bagwell urged everyone to reduce their emissions by walking and biking, shopping locally and signing up for carpoolworld.com\redbank to track their carbon footprint. She said the Environmental Commission was also organizing a cleanup on Saturday, October 20 at Riverside Gardens Park.

She also reported that the Red Bank Human Relations Committee was working with the Borough Schools to create a 2013 calendar that would feature student artwork portraying commemorative holidays for each month. She said the Committee would pay for the production of the calendar out of funds they had raised. She said proceeds would be donated to a local charity. She anticipated they would be sold in late December and early January.

Councilwoman Lewis announced that the Halloween Parade would be on October 21 with the line up on Bergen Place. She said judging would be at 1pm and 2pm would be the step off. She said the rain date would be the 28th. She noted that it was a well-received Red Bank tradition.

Councilman Zipprich said the Department of Public Works Committee would be meeting the following week to discuss the progress of the road program and to talk about budget preparation of 2013. He said they would also be discussing solid waste/recycling and would be discussing a new management application that would allow them to share information and resources. He also reported that the Historic Preservation Commission would be holding a fall gathering on November 10 at the Women's Club, 164 Broad Street. He said it would be an opportunity for residents to meet with preservation experts. He also announced that the Shade Tree Committee would be starting their fall planting of trees toward the end of the month. He said the trees being planted would mostly be replacing those that had died, were diseased or had been removed. He also reported that the formal portrait of the Mayor and Council was on display in the showcase in the entry to Borough Hall and noted that tax payer funds were not used as it had been donated by J.P. Nicolaides

Councilman DuPont reported that the Borough had received a report that Moody's had affirmed its rating and had also revised the outlook from negative to stable. He also noted that CFO Lapp, Administrator Sickels and Auditor Kaplan had participated in a five hour conference with Moody's to explain how the Borough had reduced debt, reduced operating expenses and managed its utility funds. He said they had revised the Borough's outlook as a result. He reviewed some of the Borough specific actions that had contributed to that decision. He offered special thanks to CFO Lapp, Administrator Sickels and Councilmembers Zipprich and Lewis. He also reported that the Mayor's Wellness Committee would be hosting their second event in the Mayor's Wellness Campaign on October 20th starting in Marine Park. He noted that representatives of Meridian and the YMCA would be on hand as well as some RiverCenter participants. He noted the event would be held rain or shine and thanked Doreen Hoffmann and members of the Committee for their efforts.

Mayor Menna thanked Councilwoman Horgan, Councilwoman Lee and Councilman Zipprich for supporting HabCore at a recent dinner. He also noted that CFO Lapp and the Finance Committee had done a Herculean job with the representatives of Moody's. He also reported that the last day to register to vote would be Tuesday, October 16 and noted that the Municipal Clerk's Office would remain open until 9 pm on that date to accommodate last minute registrations.

COMMUNICATIONS AND PETITIONS

By Consent Agenda:

Request from VNA of Central Jersey to hang a banner on Shrewsbury Avenue from November 12, 2012 to December 7, 2012 to advertise their Holiday House Tour and on Broad Street from April 15, 2013 to May 15, 2013 to advertise their Designer Show House.

Request from Mona McQuillan for membership to the First Aid & Rescue Squad of the Red Bank Volunteer Fire Department.

Request from Red Bank Flavour to hold Holiday Flavour at the Molly Pitcher Inn on Thursday, November 29, 2012 from 6:00 to 9:00 p.m., approved by the Special Events Committee.

Request from New Jersey Museum of Contemporary Art to extend the time for de-installation of the "Heads" art exhibit from October 19, 2012 to October 27, 2012.

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

ROLL CALL:

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

NAYS: None

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

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

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

No one appeared.

ORDINANCES – First Reading

2012-19 Mayor Menna read, "AN ORDINANCE OF THE BOROUGH OF RED BANK, COUNTY OF MONMOUTH, NEW JERSEY AUTHORIZING THE CONVEYANCE OF TWO PERMANENT SANITARY SEWER EASEMENTS, A PERMANENT WATER MAIN EASEMENT AND THE VACATION OF EXISTING CONDITIONAL EASEMENTS FOR THE EXTENSION OF CEDAR AVENUE (ALSO KNOWN AS CEDAR STREET) AND RIVER STREET IN CONNECTION WITH THE CEDAR CROSSING AFFORDABLE HOUSING DEVELOPMENT PROJECT."

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

ROLL CALL:

AYES: Lewis, Zipprich, Horgan, Lee, Murphy

NAYS: None

ABSTAIN: DuPont

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

Public hearing and final adoption scheduled to be held October 24, 2012.

ORDINANCES – Public Hearing and Final Adoption

RESOLUTIONS

By Consent Agenda:

- 12-201 A RESOLUTION REQUESTING SPECIAL ITEM OF REVENUE (DDEF-POLICE).
- 12-202 A RESOLUTION ACKNOWLEDGING RECEIPT OF BEST PRACTICES INVENTORY AS PREPARED BY THE CHIEF FINANCIAL OFFICER.
- 12-203 A RESOLUTION REQUESTING PERMISSION FOR THE DEDICATION BY RIDER FOR ACCUMULATED ABSENCES LIABILITY TRUST FUND REQUIRED BY NJAC 5:30-15.
- 12-204 A RESOLUTION REQUESTING PERMISSION FOR THE DEDICATION BY RIDER FOR SNOW REMOVAL RESERVE TRUST FUND REQUIRED BY PL2001, C.138 AND NJS 40A:4-62.1.
- 12-205 A RESOLUTION AUTHORIZING CONTRACT FOR ANIMAL WARDEN SERVICES WITH THE BOROUGH OF FAIR HAVEN.
- 12-206 A RESOLUTION AUTHORIZING CHANGE ORDER NO. 2 RELATED TO THE CONTRACT WITH MECO, INC. FOR THE 2011 ROAD IMPROVEMENT PROGRAM.
- 12-207 A RESOLUTION AUTHORIZING TAX REFUNDS DUE TO OVERPAYMENT OF TAXES FOR VARIOUS REASONS.
- 12-208 A RESOLUTION AUTHORIZING REFUNDS DUE TO OVERPAYMENT OF TAXES DUE TO A JUDGMENT OF THE TAX COURT OF NEW JERSEY.

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

ROLL CALL:

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

NAYS: None

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

12-209 Mayor Menna read, "A RESOLUTION AUTHORIZING VALET PARKING SERVICES ON BRIDGE AVENUE ON A TEMPORARY BASIS."

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

ROLL CALL:

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

NAYS: None

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

PAYMENT OF VOUCHERS

12-210 Mayor Menna read, "A RESOLUTION FOR PAYMENT OF BILLS AMOUNTING TO \$2,804,472.38."

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

ROLL CALL:

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

NAYS: None

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

PROCLAMATIONS

Mayor Menna read a proclamation proclaiming October 7 through 13, 2012 as Fire Prevention Week in the Borough of Red Bank.

OLD BUSINESS

NEW BUSINESS

AUDIENCE

Nikki Marks—34 Waverly Place—said she had recently moved to Red Bank from Long Branch and was having a problem with her neighbors on Irving Place. She said the issue involved a school bus that she parked on that street and she had been faced with racist comments.. She said she had been ticketed for parking and said no sign was posted. She said she had checked with the business owner and also with police officers who had all told her she could park there. She said she felt she should not have to pay the ticket since there was no sign posted. She spoke of ongoing issues of where she could park the bus and asked what she could do about the ticket.

Mayor Menna noted that once a ticket is issued, under State Law, it must be addressed in Municipal Court. He said he felt some consideration would be given since no sign was posted.

Administrator Sickels gave her the name of the Municipal Prosecutor.

Mayor Menna told her to make sure to let the Court Administrator know she wanted to plead not guilty. She said she had already done that.

Ms. Marks said she also had a question about code enforcement because there were issues in the duplex she lived in regarding mold. She said she had called and left messages but gotten no response. Mayor Menna advised her to speak with Mr. Sickels after the meeting and give him her contact information so he could address it.

Marjorie Lowe—9 Wall Street—said she had previously appeared to ask for the Borough to give consideration to the spaces in front of the movie theater and said it appeared the consideration was to put new meters in that she said were a headache to her and other seniors. She claimed the meters were difficult to use and representatives of the Parking Utility were not available to help seniors on a daily basis. She asked for a set of directions to operate the meter.

Mayor Menna said the directions were on the meters.

Administrator Sickels said he believed there were some hand out materials that Mr. Watson had available when the meters were first installed. He said he would ask that a supply be dropped off at the theater.

Ms. Lowe also said it was an issue when members of the neighboring fire company parked in front of the theater on their meeting nights for hours at a time. She said it made it difficult for people to drop off in front of the theater.

Mr. Sickels said he would speak with the Company and ask them to keep the area clear.

Freddie Boynton—365 Shrewsbury Avenue—said that he had seen the Councilman running for election the previous year out cleaning the drain system prior to the election but once re-elected he no longer saw him doing it. He said the fact that the work was not being done was contributing to flooding in several areas of town. He said he felt that they should not do something just to get elected. He also noted that taxes in the Borough had gone up and expressed concern for his elderly aunt that lived in town. He

questioned some expenses which he said he felt were unnecessary such as GPS systems for garbage trucks. He also said he felt disrespected by some Councilmembers who would not acknowledge him when they saw him. He said he also had an issue with the fact that there had been a garbage truck parked at the end of Sunset Avenue for the entire summer and said it was full of water and attracting mosquitoes. He asked Administrator Sickels to look into the issue. He said he was also concerned about the number of people that were taking time off at public works and asked who was monitoring the situation. He asked that someone check into how many people were calling out in that Department.

Mayor Menna said he appreciated Mr. Boynton's comments and said they would look into his questions the following morning. He noted that Mr. Boynton was an alumnus of the Borough's Department of Public Work and he praised the work done by employees in that Department and noted that it was work that a lot of people would not want to do. He said he knew the Councilmembers had tremendous respect for all of them and they worked with them to try to make their situation better. He said he would look into Mr. Boynton's concerns but said the Public Works employees were, by and large, good people that did a lot for the Borough's residents.

Mr. Boynton said he understood that but questioned how employees were utilized especially when they were shorthanded.

Greg Maloof—16 Broad Street—said he wanted to encourage the Council to continue the fight against New Jersey Natural Gas against the installation of above ground regulators. He said it was a particular problem for businesses that had operations out front. He noted that he had had two of his own properties where the regulators had been hit which had caused the closure of business for a day or two and added that he thought they were a public hazard\

Mayor Menna said he appreciated Mr. Maloof's comments and noted that the Council would be retiring for what he considered would be a very brief Executive Session to discuss litigation. He estimated they would be coming back to open session within five minutes to make a formal announcement.

EXECUTIVE SESSION

12-211 The Attorney read a resolution to adjourn to executive session to discuss litigation.

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

ROLL CALL:

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

NAYS: None

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

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

ROLL CALL:

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

NAYS: None

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

Mayor Menna noted that the Council had had a brief Executive Session discussion in conjunction with the Borough Attorney, the Administrator and the Director of Public Works. He said, as a result of the actions of New Jersey Natural Gas and their unilateral fiat to install regulators in front of buildings downtown and as a consequence of the Law Division opinion that favored New Jersey Natural Gas, the Borough Council had been asked to consider appealing the decision of the Assignment Judge to the Appellate Division of Superior Court. After deliberate discussion with the members of the Council, he continued, and cognizant of the fact that the RiverCenter Business District had already made a decision to appeal the matter, it was the consensus of the Council to file an appeal to the Appellate Division of Superior Court effective immediately. He said they would request from the Appellate Division a stay of the implementation of Judge Lawson's order that favored New Jersey Natural Gases plan to replace the regulators in front of the buildings in the downtown.

Councilman DuPont made a motion to authorize the appeal, seconded Councilman Murphy.

ROLL CALL:

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

NAYS: None

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

Councilman DuPont said he believed the Mayor and Council were making a statement that they were taking the step to protect their business district and all of the investments that had occurred in that district. He said it was vital to the health of the community. He added that it was his understanding that many other municipalities had not experienced what Red Bank had been suffering with New Jersey Natural Gas. He said he felt they needed to make a statement that they would protect their town as well as their neighborhoods and business districts. He noted that millions of dollars had been invested into the town's streetscape. He said he knew that everyone on the Council felt the same when he stated that the Borough

was not going to roll over and let New Jersey Natural Gas come in tear up their town and distort their sidewalks and streets. He said he wholeheartedly agreed with the leadership position being taken. He said he knew that the Borough had a competent and able Attorney and he was quite sure the Borough would be successful on the merits of the case.

Councilman Zipprich said he wanted to echo Councilman DuPont's comments and said he appreciated the efforts that Attorney O'Hern was putting in along with the Attorney for the RiverCenter Board. He said the issue was about protecting the Borough historic downtown and its feel and charm. He said the Council was also acting as the voice of the property owners and tenants in the district and added that he felt it was the right thing to do.

Mayor Menna said he felt it was the only thing to do.

Councilwoman Horgan said she thought it should be noted that the gas company would not collaborate or talk with the Borough. She noted that Senator Beck had even tried to assist and she had been ignored as well. She said she also thought they were doing the right thing.

Mayor Menna noted that New Jersey Natural Gas was going against a trend where most utilities across the country were putting the equipment underground and said he thought it showed insensitivity to local communities. He also cited it as a problem when there is a monopoly. He also noted that the Governing Body had wanted to review the company's evidence that they were making the change for the public good and safety, but said the company would not show the evidence.

Councilwoman Lee thanked her fellow Councilmembers for standing in support of the business district and said it was a pleasure to serve with them.

ADJOURNMENT

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

ROLL CALL:

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

NAYS: None

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

Respectfully submitted,

Pamela Borghi