

**MINUTES
REGULAR MEETING
MUNICIPAL COUNCIL – BOROUGH OF RED BANK
DECEMBER 19, 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, 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 12, 2012.

Mayor Menna called for a moment of reflection for the victims at Sandy Hook Elementary School and for Red Bank Regional High School Student Albert Martin.

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.

12-247 Mayor Menna read, "A RESOLUTION HONORING MICHAEL YURA AND PROFESSIONAL PHARMACY."

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

Mr. Yura thanked everyone for the resolution and for their support. He could not have been successful without everyone present and said he was very proud of his staff. He spoke of how much he enjoyed the business and said he felt he should be giving Red Bank a plaque.

Councilwoman Lee commended Mr. Yura on his dedication and extraordinary service and noted that in many storms, his was the one business that could be counted on to be open.

Mr. Yura said it was great to be that person for the town.

Presentation of Certificate of Appreciation to Evan Sanborne

Mayor Menna reviewed the length of time he had known Mr. Sanborne and presented him with a certificate of appreciation for his service to our country.

Mr. Sanborne thanked the Mayor for the recognition and said his family had been supportive in every decision he had made.

12-244 Mayor Menna read, "A RESOLUTION HONORING GARRETT SICKELS."

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

Administrator Stanley Sickels presented the resolution. Garrett Sickels said he felt something special had been instilled in him since he was born in Red Bank. He said the honor was unexpected and thanked the Mayor and Council for the recognition.

Presentation to Garrett Sickels by Senator Jennifer Beck

Senator Beck read a resolution from the State Senate and presented it to Garrett Sickels. She also commended Evan Sanborne and spoke of her pride in both young men.

Presentation of Awards for Holiday Home Decorating Contest

Parks and Recreation Committee Liaison Juanita Lewis and Recreation Director Memone Crystian presented certificates and prizes to the winners of the 2012 Holiday Home Decorating Contest. The winners were: 3rd Place-Dori Chippendale of 57 Elm Place; 2nd-Place Richard and Faith Ann Murach of 41 John Street and 1st Place-Michael and Theresa Boulos of 25 Branch Avenue.

RESUME REGULAR ORDER OF BUSINESS

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

ROLL CALL:

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

NAYS: None

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

WORKSHOP

23 Knight Street Request—Mayor Menna explained that the Council had reviewed the package that had been submitted on behalf of the property owner and had reviewed the facts of the case. He noted that the Borough Engineer and the Borough Attorney had advised the Council of the issues. He asked Mr. Erhart, who had submitted the packages, if he wanted to comment.

Bob Erhart—25 Knight Street—said he questioned the Engineer’s report because she had used the word structural and read a definition from a dictionary. He said the issue revolved around a 400 to 500 pound portable hot tub which required 110 electric. He said the issue was with the easement which took up a third of the property that she paid taxes on. He also noted that the Engineer’s report expressed concern about the possibility that the homeowner could sell the property in the future which, he said, should not be an issue. He said it was the only logical place for the hot tub to go and said he felt there was no reason the Council should not approve the request.

Mayor Menna said the issue was whether or not the hot tub could be built over the easement. Mr. Erhart disagreed with the word “built.”

Attorney O’Hern noted that Mr. Erhart had read a definition from a dictionary but clarified that the word “structure” was defined under the Borough’s Land Use Ordinance as well as Municipal Land Use Law and said the hot tub would fit under that definition of the word structure which was why Mr. Erhart had had to go to the Zoning Officer to get a permit. He added that the Zoning Officer had denied it, not for Zoning issues, but because it was within an easement. He said the Borough had to be very careful about establishing a precedent and said the language in the easement being discussed would require the Borough to restore the property to the previous conditions which could put the Borough at risk.

Mr. Erhart again said he felt it was portable and removable and asked them not to worry about what might happen if the future.

Councilwoman Horgan asked if it could be placed on another spot on the property.

Councilman Murphy asked if it would be on a concrete slab.

Mr. Erhart said it would not. He said it would be placed on an 8’x8’ wooden deck that could be removed.

Administrator Sickels noted that it would need an emergency disconnect and pointed out the Mr. Erhart had said it weighed 400 to 500 pounds. He said Mr. Erhart had previously mentioned that he had an alternative location.

Mr. Erhart explained why the second location was not desirable. He also noted that the property owner was paying taxes on a property where one third was unusable.

Mayor Menna said that would be an issue for a tax appeal.

Attorney O’Hern noted that when a property owner purchases a property they take it with the knowledge of an easement.

Mr. Erhart said the property owner had inherited the property when her husband had passed away and was not aware of the easement. He said they had found out about it three month prior when they had tried to put a shed on that portion of the property.

Mayor Menna noted that there were recommendations from the Borough Engineer and the Borough Attorney and asked if the Council wanted to affirm those recommendations or vacate them.

Councilman DuPont offered a motion to affirm the recommendations, 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.

Mr. Erhart asked what his next step would be. Attorney O'Hern said it would be his prerogative to consult with an attorney.

APPROVAL OF MINUTES – December 5, 2012

Councilman DuPont offered a motion to approve the minutes, 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.

MAYORAL APPOINTMENTS

None.

REPORTS OF MAYOR AND COUNCIL

Councilman Murphy said he had no report but wanted to wish everyone happy holidays and a safe and happy New Year.

Councilwoman Lee reported that both the Board of Health and the Library had been very active during the storm. She said the Board of Health, through the Monmouth County Regional Health Commission, had provided needed vaccines at no charge to the first responders from anywhere in the country who were on hand to help during the event. She said the Health Department had also asked her to bring the issue of a possible outdoor smoking ban to the Council. She said she would be forwarding information on what other towns had done and asked Councilmembers to consider an ordinance on the matter. She also reported that the Library had opened after the storm and people came in to use it as a refuge. She said the Library not only offered reading materials but also access to the internet and coffee. She commended those Borough employees for going above and beyond the call of duty. She noted that the post storm week saw about 300 books a day being checked out but during the storm, there were 1,100 a day being borrowed. She said she hoped it would encourage more people to participate in the Library.

Councilwoman Horgan said she had no report and also wished everyone a happy holiday and a happy and healthy New Year.

Councilwoman Lewis said the Parks and Recreation was currently taking winter sports registrations and would be moving to a year round registration. She said the Department had also participated with the Westside Community Group and Lunch Break to coordinate the Westside Tree Lighting on December 8. She said it had been very well attended and said it was a lot of fun. She thanked the organizations for making it happen. She noted that they had also read a proclamation for resident Joyce Williams to commend her for all of her efforts with the Westside Community Group. She also reported that on December 15, there had been snacks with Santa at the Red Bank Senior Center which had also been well attended. She also wanted to bring to everyone's attention the fact that Red Bank had received a grant from the Baseball Tomorrow Fund in the amount of \$60,000 for renovation of the baseball field. She said work would include the installation of artificial turf, a dugout and portable mound. She wished everyone happy holidays and thanked them for all that they do and for participating with Red Bank Recreation.

Councilman Zipprich reported that the Public Works, Shade Tree and Historic Preservation Committees had all met. He thanked Engineer Ballard for her thorough report to update on all of the construction and road projects. He said their hearts went out to those affected by the tragic loss in Newtown, Connecticut and said he had spoken with someone who had attended one of the funerals and had told him about the grief of those affected. He said a tragedy of this magnitude should serve as a reminder to the world that we should live in peace.

Councilman DuPont said he wished to echo those sentiments. He asked what the Mayor and Council could do make sure that this wouldn't happen in their town or state. He said there were bills pending to prohibit the sale of ammunition magazines with a capacity of more than ten rounds. He said he would like to see the Council do a resolution in support that could be sent to the sponsoring Senator to encourage passage. He said there was another bill that called for a ban of all assault weapons and high capacity ammunition magazines. He said he would like to see resolutions in support of the passage of both of those bills. He urged people to hug everyone and celebrate life. He wished everyone a Merry Christmas and a blessed New Year.

Mayor Menna said he believed the Council would be fully supportive and they could introduce those resolutions after the first of the year. He said he also wanted to remind everyone of something that Red

Bank should be very proud of which was the fact that in January of his first term, he had signed up as one of the Mayors joining in Mayor Bloomberg's ban against handguns. He said Red Bank was on a list of municipalities that favors the restriction of weapons and certainly handguns and assault weapons. Secondly, he continued, something that goes to show the type of great leadership Red Bank has in its school system, was the fact that, after the tragedy on Friday morning, the Superintendent of Schools had conferred with him and she had composed a two page letter that went home to parents on how to guide their children in regard to the news media and dealing with the event.

COMMUNICATIONS AND PETITIONS

None.

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

None.

ORDINANCES – First Reading

ORDINANCES – Public Hearing and Final Adoption

2012-21 Mayor Menna read, "ORDINANCE OF THE BOROUGH OF RED BANK, COUNTY OF MONMOUTH, NEW JERSEY AMENDING AND SUPPLEMENTING CHAPTER 490 PLANNING AND DEVELOPMENT REGULATIONS, ARTICLE II, DEFINITIONS AND ARTICLE X, ZONING, TO DEFINE ADULT ORIENTED BUSINESS AS A CATEGORY OF LAND USE AND TO PERMIT ADULT ORIENTED BUSINESS AS A USE OF THE HB HIGHWAY BUSINESS ZONE DISTRICT."

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 Councilwoman Lewis.

ROLL CALL:

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

NAYS: None

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

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

ROLL CALL:

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

NAYS: None

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

2012-22 Mayor Menna read, "ORDINANCE OF THE BOROUGH OF RED BANK, COUNTY OF MONMOUTH, NEW JERSEY AMENDING AND SUPPLEMENTING CHAPTER 490 PLANNING AND DEVELOPMENT REGULATIONS, ARTICLE II, DEFINITIONS TO REVISE THE DEFINITION OF A PROFESSIONAL OFFICE."

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 Councilwoman Lee.

ROLL CALL:

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

NAYS: None

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

Councilman Zipprich offered a motion to adopt the ordinance on final reading, 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.

2012-24 Mayor Menna read, "ORDINANCE OF THE BOROUGH OF RED BANK, COUNTY OF MONMOUTH, NEW JERSEY AMENDING AUTHORIZATION OF SANDWICH BOARD SIGNS."

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

No one appearing, Councilman Murphy 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 was declared approved.

Councilman Murphy offered a motion to adopt the ordinance on final reading, seconded by Councilman Zipprich.

ROLL CALL:

AYES: Lewis, Zipprich, DuPont, Horgan, Murphy

NAYS: None

ABSTAIN: Lee

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

RESOLUTIONS

By Consent Agenda:

- 12-234 A RESOLUTION AUTHORIZING CHANGE ORDER NO. 3 RELATED TO THE CONTRACT WITH MECO, INC. FOR THE 2011 ROAD IMPROVEMENT PROGRAM.
- 12-235 A RESOLUTION AUTHORIZING PLACE-TO-PLACE TRANSFER AND CHANGE OF CORPORATE STRUCTURE OF PLENARY RETAIL DISTRIBUTION LICENSE NO. 1340-44-005-008 (RED BANK BUY RITE, LLC).
- 12-236 A RESOLUTION TO CANCEL UNEXPENDED BOND ORDINANCES.
- 12-237 A RESOLUTION AUTHORIZING TRANSFER OF 2012 CURRENT FUNDS.
- 12-238 A RESOLUTION REQUESTING AUTHORIZING TO CANCEL STALE DATED CHECKS.
- 12-239 A RESOLUTION AUTHORIZING CANCELLATION OF TAX SALE CERTIFICATE PREMIUM MONIES PER NJSA 54:5-33.
- 12-240 A RESOLUTION AUTHORIZING THE ASSIGNMENT OF CERTAIN TAX SALE CERTIFICATES NOW HELD BY THE BOROUGH OF RED BANK.
- 12-241 A RESOLUTION AUTHORIZING THE CANCELLATION OF UNCLAIMED TAX SALE REDEMPTION MONIES PER NJSA 54:5-57.1 SECTION 13.
- 12-242 A RESOLUTION TO EXTEND THE TEMPORARY SUSPENSION OF THE PARKING DEFICIENCY SCHEDULES IN THE BOROUGH'S PLANNING AND DEVELOPMENT REGULATIONS DURING ECONOMIC EMERGENCY.
- 12-243 A RESOLUTION REGARDING 2013 REORGANIZATION MEETING OF THE GOVERNING BODY.
- 12-245 A RESOLUTION AWARDING CONTRACT FOR PURCHASE OF AERIAL FIRE APPARATUS.

Councilwoman Lewis offered a motion to approve the resolutions, 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.

12-246 Mayor Menna read, "A RESOLUTION AUTHORIZING PERSON-TO-PERSON TRANSFER OF PLENARY RETAIL DISTRIBUTION LICENSE NO. 1340-44-028-003 (HERITAGE LIQUORS).

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

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.

PAYMENT OF VOUCHERS

12-248 Mayor Menna read, “A RESOLUTION FOR PAYMENT OF BILLS AMOUNTING TO \$6,777,949.40.”

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

PROCLAMATIONS

None.

OLD BUSINESS

None.

NEW BUSINESS

None.

AUDIENCE

No one appeared.

EXECUTIVE SESSION

None.

ADJOURNMENT

Councilman Murphy offered a motion, seconded by Councilman DuPont 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