

**MINUTES  
REGULAR MEETING  
MUNICIPAL COUNCIL – BOROUGH OF RED BANK  
JANUARY 11, 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, Engineer Ballard 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 3, 2012.

**WORKSHOP**

**APPROVAL OF MINUTES – December 7, 2011**

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

**ROLL CALL:**

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

NAYS: None

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

**APPROVAL OF MINUTES – December 21, 2011**

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

**ROLL CALL:**

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

NAYS: None

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

**MAYORAL APPOINTMENTS**

Mayor Menna appointed Boris Kofman and Susan Frieri as members of the Shade Tree Commission for 3-year terms expiring 12/31/2014.

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

**ROLL CALL:**

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

NAYS: None

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

**REPORTS OF MAYOR AND COUNCIL MEMBERS**

Councilman Murphy had no report.

Councilwoman Lee had no report.

Councilwoman Horgan had no report.

Councilwoman Lewis had no report.

Councilman Zipprich reported that the Historic Preservation Commission had met at the end of the previous month and elected a new Chair to replace George Bowden who was stepping down from the position after many years. He said the new Chair was Mark Fitzsimmons and added that Mr. Bowden will remain on the Commission as a regular member. He said he also wanted to remind everyone that there would be a service at Pilgrim Baptist Church the following Sunday to commemorate Martin Luther King Day.

Councilman DuPont had no report other than the fact that the Finance Committee was working on the budget.

Mayor Menna reported that another not-for-profit had agreed to contribute approximately \$10,000 as a payment in lieu of taxes and a second organization was close to making a pledge for a similar amount.

Councilman DuPont said the Finance Committee appreciated his efforts to secure these types of payments.

### **COMMUNICATIONS AND PETITIONS**

Mayor Menna read a request from St. Nicholas Russian Orthodox Church for procession from their church on Pearl Street to the Navesink River at the end of Maple Avenue on January 19, 2012 at 12 p.m. to bless the waters for Russian Orthodox Epiphany.

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

#### **ROLL CALL:**

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

NAYS: None

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

Mayor Menna read a request from the Sandy Hookers Tri Club to hang a banner on Broad Street from April 30, 2012 to May 20, 2012 to promote the 3<sup>rd</sup> Annual Red Bank Triathlon.

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

#### **ROLL CALL:**

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

NAYS: None

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

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

#### **ORDINANCES – First Reading**

2012-1 Mayor Menna read, “ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER VIII, “PARKING LOTS AND HANDICAPPED PARKING SPACES”, SUBSECTION 8-2.8, “RESTRICTED PARKING”, SCHEDULE IV OF THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF RED BANK.”

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

#### **ROLL CALL:**

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

NAYS: None

There being six ayes and no nays, the ordinance was declared adopted on first reading.

Public hearing and final adoption scheduled to be held January 25, 2012.

**ORDINANCES – Public Hearing & Final Adoption**

**RESOLUTIONS**

**By Consent Agenda:**

- 12-07 A RESOLUTION DESIGNATING THE HUMAN RELATIONS MANAGER AS THE AS THE CERTIFYING AGENT AND THE BOROUGH TREASURER AS THE SUPERVISOR OF THE CERTIFYING AGENT IN CONNECTION WITH THE PUBLIC RETIREMENT SYSTEM.
- 12-08 A RESOLUTION AUTHORIZING THE BOROUGH TREASURER TO OPEN AN ACCOUNT IN TD BANK N.A. AND VALLEY NATIONAL BANK AND TO SIGN ALL PAYROLL CHECKS.
- 12-09 A RESOLUTION AUTHORIZING CREATION OF CHANGE FUNDS.
- 12-10 A RESOLUTION DESIGNATING DEPOSITORIES FOR THE BOROUGH OF RED BANK.
- 12-11 A RESOLUTION FIXING THE RATE OF INTEREST TO BE CHARGED ON DELINQUENT TAXES OF ASSESSMENTS.
- 12-12 A RESOLUTION AUTHORIZING THE BOROUGH TREASURER TO OPEN AN ACCOUNT FOR MAKING PAYMENTS IN CONNECTION WITH THE REDEMPTION OF TAX TITLE LIENS.
- 12-13 A RESOLUTION APPOINTING COLLEEN LAPP AS FUND COMMISSIONER AND EVA BIVIANO AS ALTERNATE FUND COMMISSIONER TO CENTRAL JERSEY HEALTH INSURANCE FUND.
- 12-14 A RESOLUTION APPOINTING COLLEEN LAPP AS FUND COMMISSIONER AND GARY WATSON AS ALTERNATE FUND COMMISSIONER TO MONMOUTH COUNTY JOINT INSURANCE FUND.
- 12-15 A RESOLUTION APPROVING CASH MANAGEMENT PLAN.

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

**ROLL CALL:**

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

NAYS: None

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

- 12-16 Mayor Menna read “A RESOLUTION AMENDING TIME AND PLACE OF BOROUGH COUNCIL MEETINGS FOR 2012.”

Councilman DuPont 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 resolution was declared approved.

- 12-17 Mayor Menna read “A RESOLUTION AUTHORIZING AGREEMENT WITH INTERFAITH NEIGHBORS, INC. FOR 2012 NUTRITION PROGRAM FOR RED BANK SENIOR CENTER.”

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

ROLL CALL:

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

NAYS: None

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

12-18 Mayor Menna read "A RESOLUTION AUTHORIZING AN AGREEMENT WITH DR. MICHAEL KAHN OF EMPLOYEE CONSULTING ASSOCIATES."

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

ROLL CALL:

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

NAYS: None

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

12-19 Mayor Menna read "A RESOLUTION AUTHORIZING TRANSFER OF WATER/SEWER OPERATING FUND APPROPRIATION RESERVE."

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

ROLL CALL:

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

NAYS: None

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

12-20 Mayor Menna read "A RESOLUTION THE FILING OF A RECYCLING TONNAGE GRANT."

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

ROLL CALL:

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

NAYS: None

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

**PROCLAMATIONS**

**PAYMENT OF VOUCHERS**

12-21 Mayor Menna read "A RESOLUTION FOR PAYMENT OF BILLS AMOUNTING TO \$2,914,483.23."

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 resolution was declared approved.

**OLD BUSINESS**

**NEW BUSINESS**

## AUDIENCE

Sharon Hawthorne—Hubbard Park—said she wanted to make the Council aware of an application to convert the Welsh Farms to a 7-Eleven. She said she had serious concerns about the hours of operation in her part of town that was surrounded by residences. She said she was appearing to garner the Council's awareness and to make sure they knew there was a large group of people that were very concerned.

Mayor Menna said he would diplomatically try to address her comments. He said they appreciated her visit and told her everyone on the Council was keenly sensitive with regard to the application that was pending before the Planning Board. He explained that, by State law, members of the Governing Body may not express an opinion during a pending application that had been filed before a quasi-judicial board. He added that, even though they may want to comment, they were precluded from doing so because, if it ever went to court, a claim could be made that the board acted with respect to political implications rather than the testimony. He also noted that two members of the Governing Body, being Councilman Zipprich and himself, who, by statute, serve on the Planning Board. He said they would be hearing the application and testimony of people who were both in favor and of those against it and then rendering their decision.

He told her she could rest assured that they were all aware of the application as well as other pending applications. He said they would study it and follow it closely but could not express an opinion while it was still pending and being heard by the Planning Board. He said he strongly recommended that anyone interested should maintain their interest and attend the meetings where those hearings would be held to express their opinion in that forum.

He said he just wanted to explain the reason they would have to remain mute in response to her question.

Ms. Hawthorne said she felt it was important for her to attend and advise everyone of the situation.

Cindy Burnham—146 Harrison Avenue, Fair Haven—asked Administrator Sickels if there were ordinances regarding the area where the Welsh Farms was located. Mayor Menna said there were a lot of ordinances and asked which she was referring to. She said she was asking about something in regard to a business being open 24 hours per day. Mayor Menna said there were about 30 or 40 different ordinances. Ms. Burnham said she was asking specifically about 24 hour operation and again asked Mr. Sickels to answer. Mayor Menna said the answer would call for a legal interpretation and Mr. Sickels was also on the Planning Board and it would be foolhardy and imprudent of him to express an opinion on a statutory interpretation that may come before the board. Ms. Burnham said she was not asking for an interpretation. Mayor Menna said the answer to her question was, yes, there were ordinances. Ms. Burnham asked if Attorney O'Hern could answer her question. Mr. O'Hern said he would have to look at the ordinance and agreed with the Mayor's statement that there were numerous ordinances that apply to zoning throughout the Borough and they would have to look at the ordinance in order to give an opinion.

Ms. Burnham said she had thought that there were letters in regard to the fact that Welsh Farms could not be open 24 hours and asked Mr. Sickels to confirm. Mayor Menna said Mr. Sickels was not going to answer because if he answered in such a way that someone else might misinterpret, then he would not be able to vote on the application.

Attorney O'Hern noted that the Mayor had already said that that question was an issue that would be decided by the Board. In regard to her questions directed to him, Mr. O'Hern continued, he said he had not reviewed the ordinance for that purpose and could not give her an answer.

Ms. Burnham asked if she could obtain a copy of the ordinance in the Zoning Office. Mayor Menna said she could and Attorney O'Hern advised her they were on the Borough's website also.

Mayor Menna explained that he did not want Mr. Sickels answering a question that he may have to answer at the Planning Board.

Ms. Burnham said she thought he could answer as to whether or not the ordinance stated the hours they could operate. Mayor Menna noted that if one asked various attorneys one would get different answers.

Vincent Lapore—80 North Broadway, Long Branch—noted he had attended a Council meeting a couple of months ago and was appearing tonight to ask about the status of ordinance 2011-17. Mayor Menna said it had been referred to Councilwoman Lee's Code Enforcement Committee for review and there had been no report back to the Council at this point. Mr. Lapore asked if there was a time limit for the response. Mayor Menna explained that any 2011 ordinances that were not acted upon would die at the end of the year. He said depending on the decision of the Code Enforcement Committee, if it should return the Council it would have to be reintroduced.

Mr. Lapore read a statement attributed to Mayor Menna regarding eminent domain that said "that is where the money is." He asked Mr. Menna if he had said those words. Mayor Menna said the statement was in the context of a discussion of someone putting in a bid for counsel fees. He said if a town had eminent domain, which Red Bank did not, it would involve litigation and attorneys make money on litigation. The Mayor noted that Red Bank had never adopted eminent domain and had actually adopted

an ordinance banning it. He said his point had been that if they were going to redevelop something and not use eminent domain, there wouldn't be any litigation.

Mr. Lapore asked if there were any redevelopment zones in Red Bank. Mayor Menna said there were not.

Mr. Lapore spoke of the history of redevelopment in Long Branch and an attorney that had been quoted regarding the profit that could be made from condemnation. He forewarned about a possible abuse of power when properties were taken. He again questioned the use of the word blight in the original ordinance and noted the potential of the some the Borough west side waterfront properties. He said he just wanted to clarify the Mayor's comments to avoid a situation similar to the one he claimed occurred in Long Branch.

Mayor Menna said Mr. Lapore helped make his point that Red Bank didn't have to many respondents to their request because they would not be taking properties which was where the money would be made.

## **EXECUTIVE SESSION**

## **ADJOURNMENT**

Councilman Murphy offered a motion, seconded by Councilman Zipprich 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