

**MINUTES
REGULAR MEETING
MUNICIPAL COUNCIL – BOROUGH OF RED BANK
JUNE 14, 2010
6:30 P.M.**

PLEDGE OF ALLEGIANCE

Mayor Menna asked those in attendance to remain standing for a moment in silence to mark the one year anniversary since Christine McKenna's death.

ROLL CALL

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

ALSO PRESENT: Administrator Sickels, Borough Clerk Borghi, Attorney Pringle, Engineer Ballard and Chief Financial Officer Mason.

ABSENT: Assistant Attorney Hall and Auditor Kaplan.

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 Courier, 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, 2010.

SUSPEND REGULAR ORDER OF BUSINESS

Councilman DuPont offered a motion to suspend 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.

Mayor Menna noted that there were a number of special guests attending the meeting and it was a pleasure to welcome them.

Mayor Menna welcomed the members of the Azzolina and Scaduto families and said we were here to remember the contributions and celebrate the life and tremendous joy that was brought to the residents and visitors to Red Bank for so many years by the late Joseph Azzolina. The Mayor noted that while Mr. Azzolina lived in Middletown his heart was always in Red Bank noting that Broad Street was the chosen place for his banner store and he was so proud of Foodtown as well as his other store on Newman Springs Road. The Azzolina family, he continued, has been part and parcel of this community in so many ways and very quiet ways. He added that, when the community needed something for its not-for-profits, charitable endeavors and especially the children of the Borough or those with challenges, Joe Azzolina was always the first person that would come to the table. Mayor Menna said Mr. Azzolina was a towering figure in Monmouth County, but more importantly he had a big and warm heart coming from his family roots which he was able to translate to his own children and other members of the family. He said it was fitting that on this day, which was Flag Day, that we pause for a second to remember, honor and commit ourselves to continuing the legacy of Joe Azzolina because if there was anything other than faith that he was attached to, it was his flag.

10-142 Mayor Menna read "A RESOLUTION COMMENDING JOSEPH AZZOLINA ON HIS LIFETIME OF SERVICE TO THE CITIZENS OF RED BANK."

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 motion was declared approved.

Members of Mr. Azzolina's family came forward to accept the resolution. Joseph Azzolina Jr. thanked the Council and said Joseph Azzolina Sr. had a lot of love for the town of Red Bank. He said the family plans to continue the roots he established in the community.

Student Ambassador for the Environment Awards

Mayor Menna said he was grateful for the presence of representatives of the school boards who were in attendance.

Councilwoman Horgan gave some background on the Environmental Commission's Student Ambassador program noting its purpose was to recognize students in grades K through 8 that had shown care and concern for the environment. She added that the program's objectives were to promote good stewardship of the earth, encourage a healthy attitude and genuine concern for the environment and to recognize and support environmental consciousness. She said each of the students selected had shown through their actions a concern for the environment and the initiative to effect change. She said there were a total of four winners: two individuals from the Primary School, one individual from the Middle School and Junior Girl Scout Troop #1325 that meets at the Charter School. The first student, she continued, was Alex McCourt who made a child sized robot out of recycled materials. She said the second student was Christopher Maida who was nominated for writing a sequel to The Lorax where the boy replants the destroyed forest. Councilwoman Horgan noted that the Committee had also received a photo of an earth day project Christopher had done where he made a bird feeder from recycled material. She said Evan Elgalido had participated in a bottle cap recycling program where she not only consistently collected bottle caps but took the project beyond the school walls and engaged the help of her family. She said Junior Girl Scout Troop #1325 recognized that their school used hundreds of plastic cups each week which adversely impacted the environment and researched possible solutions. They then presented a proposal to the School Board, she continued, to install a water fountain with a spout that would allow students to refill their own water bottles. She said once the proposal was approved, they raised funds to help offset the cost of the fountain. Councilwoman Horgan and Mayor Menna presented certificates to each of the winners.

RESUME REGULAR ORDER OF BUSINESS

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

WORKSHOP

Taxi Ordinance

Mayor Menna noted that the draft of the taxi ordinance was a working document and no formal action would be taken on the matter. Attorney Pringle reviewed proposed changes to the ordinance including licensing requirements, an increase in the number of licenses, an increase in fees that would be raised incrementally with the more licenses one held and increasing the transfer fee. He said, under the proposed changes, new licenses would be made available through an auction process. He said there were proposed changes that would make it more difficult to hold inactive licenses and would require them to show activity reports.

Councilwoman Lee asked for copies of the licensing forms for each company.

The Council members reviewed some of the problems with the current procedures versus some of the proposed changes.

Administrator Sickels noted that there had been additional correspondence between Assistant Attorney Hall and the Chief of Police and that there were on going discussions.

Mayor Menna again noted that it was a work in progress and asked Council members to review the document and get their comments to Attorney Pringle. He said it should be on for introduction in about a month.

APPROVAL OF MINUTES – May 24, 2010

Councilman Murphy 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.

APPROVAL OF MINUTES – June 1, 2010

Councilman Zipprich 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

REPORTS OF MAYOR AND COUNCIL MEMBERS

Councilman Murphy had no report.

Councilwoman Lee reported that the Department of Public Works was moving forward with the 2010 Road Program which was long overdue and they also hoped to move forward shortly with the purchase of some vehicles for the Department.

Councilwoman Horgan had no report.

Councilwoman Lewis said the Parks and Recreation Council Committee would have their regularly scheduled meeting this week. She also noted that as part of the National Night Out activities, there was a presentation the previous Saturday on Cyber Bullying by Kevin Clark of the Monmouth County Prosecutor's Office. She said it was very informative and that the Superintendent of Schools and other people from the Community were there. She also reported that there was a trash clean up scheduled for the 17th beginning at 10 am from Borough Hall. August 3rd, she noted, would be Red Bank's Official National Night Out Against Crime with many activities sponsored by the Police Department being held in the Municipal Building's Parking Lot.

Councilman Zipprich reported that the Historic Preservation Committee met at the end of May to finalize their annual report. He said they also reviewed the ongoing inventory of historic properties around town and have identified another dozen they would like recommend be added for 2010. He also reported that the Code Enforcement Committee had met the previous month and discussed the activity of the Department which has increased in some areas and decreased in others but noted that there was an overall increase in fees. He noted that the increase was good for the Borough and the office was also offering services to neighboring communities. He said the Committee also discussed the RiverCenter proposal for sandwich board signs and agreed to a trial Borough-wide noting that the ordinance was on this agenda for introduction. He noted that the Administrator had also presented the Committee with a proposal to provide Uniform Fire Code Services to Middletown through a shared services agreement which was also on this meeting's agenda.

Councilman DuPont said he wanted to announce that the Council was originally supposed to pass the budget at this meeting but, due to publication errors, it would not be considered until Friday, June 18 at 6:30 pm. He invited everyone to attend. He noted that the Finance Committee was looking for other areas for revenue and that the members of the Committee along with Councilwoman Horgan had discovered that PSE&G had a solar program known as Solar For All or Neighborhood Solar. He noted that he and Councilwoman Horgan had written about the importance of investigating solar panels two years ago but nothing seems to have been accomplished. He said the PSE&G program that would provide for solar panels to be installed on telephone poles and the company would lease the poles and recharge the panels. He said he had given the information to the Environmental Commission and they would discuss it at their next meeting. He asked Administrator Sickels to follow up and obtain additional information on the program from PSE&G because not only could the Borough use telephone poles to raise money but PSE&G would agree to replace street lights noting that street lights were one of the Borough's biggest utility costs. He thanked Councilwoman Horgan, Councilwoman Lewis and Councilman Zipprich for helping him to discover the program.

Councilman DuPont also asked Mayor Menna about the Mayor's Wellness Program that he had brought up before.

Mayor Menna said he and Senator Beck would be leading a wellness walk Saturday morning to kick off the program.

Councilman DuPont asked if there would be an ordinance soon. The Mayor said there would be.

Councilwoman Lee said she wanted to refer back to Councilman DuPont's comments on the solar program and said she had been working with the Borough Engineer and the potential for solar projects in the Borough's parks and possibility of installing solar panels on the roof of the Municipal Building. She said she has also been taking with Councilwoman Lewis and Councilwoman Horgan about the issue.

Councilman DuPont said he knew she had suggested installing a solar panel field in the area of Central Avenue or Pearl Street but said there were some legal requirements that Assistant Attorney Hall had to look into.

Attorney Pringle said he had been working with Senator Bob Smith and Assemblyman Chivukula on a bill called Property Assessment Clean Energy that would enable property owners to borrow through a special assessment on their properties to cover the cost of certain energy efficiency improvements and the unsubsidized cost of solar. He said the municipality would adopt an ordinance similar to the sidewalk improvement program. He said there would be no cost to the tax payers and the municipality would basically act as a conduit and place an assessment on the property.

COMMUNICATIONS AND PETITIONS

Mayor Menna read a request from the Eastern Monmouth Area Chamber of Commerce for use of Marine Park to hold the Riverfest 2011 Food & Music Festival on June 3, 4 & 5, 2011, pending approval of the Special Events Committee.

Mayor Menna said the request needed to be read in conjunction with a similar request that was received earlier in the day from the Jersey Shore Jazz and Blue Foundation.

Councilman DuPont asked who would make the determination. Mayor Menna said it would be up to the Council and he felt they had an obligation to consider the proposals and act deliberately after that. He said he knew that Council members had received a proposal and package from the Eastern Monmouth Area Chamber of Commerce. He said no proposal other than a letter asking to reserve the date had been received from the Jersey Shore Jazz and Blues Foundation. He added that he thought he owed it to the requestors to speak with both groups and said he would be happy to sit down with them to see if they could coordinate two separate events.

Councilman DuPont asked if the letter was stating that the Jazz and Blue Foundation wanted to return to Red Bank from Oceanport. Mayor Menna said they did and they were looking for the same date. Councilman DuPont suggested that the Mayor could persuade the owners to compromise so the Borough could host both events on different days. Mayor Menna said he felt that was a real possibility.

Councilwoman Lee said she would like to see an event that would showcase Red Bank restaurants.

Councilman DuPont asked Mayor Menna if he would be getting additional information. He said he would and that they had information from the group that included the Eastern Monmouth Area Chamber of Commerce and would like more information from the Jazz and Blues group.

Councilman Murphy asked in the Council had locked into any dates with either group. The Mayor said they had not. Councilman Murphy asked in the Jazz and Blues group had moved to Monmouth Park because Marine Park was not ready for the event. Mayor Menna said that was the case. Councilman Murphy asked if Danny Murphy and other representatives of the restaurant community were looking to reopen Riverfest.

Danny Murphy came forward and gave an overview of the event from the time it started in 1979 and the fact that it was designed to be affordable and to feature local restaurants. He noted how it grew over the years and they added music and eventually contracted with the Jersey Shore Jazz and Blues Foundation to oversee that part of the event. He said the Foundation's price grew too great and the two groups went their separate ways. The two came to the Council to resolve who would keep the date and run the festival and the Council chose the Jazz and Blues Foundation. Mr. Murphy spoke of the loss of participation of local restaurants and the loss of local appeal. He said he would like to see the prices come back down and to see the local businesses benefit from the event. He outlined the plan and the people who would be involved.

Councilman Murphy asked how many restaurant vendors at the event in recent years had been Red Bank restaurants. Mayor Menna said it was very few. Councilman Murphy said he would agree with Councilwoman Lee and felt if he would rather see an event that would benefit Red Bank restaurants and merchants. He noted that Red Bank is a desirable location and mentioned some of the new events that had come into the Borough this year bringing people into town while helping the local merchants. He said in these times, they need to encourage foot traffic. He said understood that the Jazz and Blues Foundation had yet to give their pitch, but he felt if the event should provide for the Red Bank merchants or let them have first opportunity. He said he felt having an event once a month would help bring people into Red Bank. He asked the other members of the Council to consider the local businesses and restaurants when they consider both sides. He said he would like to see the festival return to prices that were affordable because it hadn't been affordable and if the money being spent on the bands was as high as reported, he had a problem with that. He again stated that the merchants and restaurants in town should have the first opportunity to be in the park. He noted that the business community had worked hard improving the downtown and they should be the ones benefiting.

Councilman DuPont said he had always favored Riverfest and noted that the business community contributes over 40 percent of the Borough's taxes. He noted that the Jazz and Blues Foundation had chosen to leave the Borough. He agreed that they need to promote local businesses and agreed with Danny Murphy that the Riverfest event brought in a different crowd. He suggested the Council accept Riverfest's request and compel the Jazz and Blues Foundation to accept a different date. He noted that Riverfest had come to the meeting prepared as opposed to the Jazz and Blues Foundation that sent a last minute letter which didn't say much. He again stated he would favor the Riverfest proposal and suggested working with the Jazz and Blues Foundation to find an alternative date.

Councilman Murphy said he would second that suggestion and asked Danny Murphy who would be running the event. Mr. Murphy said he would be on point but others would be involved such as RiverCenter and This Is It Productions. He noted that Tim McLoone had agreed to coordinate local bands of various genres. He said the bands would be willing to play for very reasonable prices. Councilman Murphy also noted that the group will still have to appear before the Special Events Committee to work out the details.

Mayor Menna said he was aware of the history of the event and he remembered when Lynda Rose of the Eastern Monmouth Area Chamber of Commerce and Danny Murphy ran the event. He said it was a sad day when they lost the event and noted that he was one of the two no votes on the decision. He said he didn't think it was the right decision then, but thought, as a matter of fairness, the Jazz and Blues Foundation also had a historical legacy with the town and he thought the Council had an obligation to listen to them.

Councilman DuPont said he would make a motion to approve Danny Murphy's request.

Councilwoman Horgan said she agreed with the Mayor and felt, in the interest of fairness, they should allow the Jazz and Blues Foundation to present their proposal. She said she was not opposed to Mr. Murphy's proposal and agreed there were other dates available.

Councilman DuPont said he didn't necessary disagree with her, but noted that the Food Festival had a long history and the organizers were in attendance with a request and proposal. He said there was nothing to stop the Jazz and Blues Foundation from picking another date. He again said he was prepared to vote on it and he noted that Councilman Murphy had seconded his earlier motion.

Councilwoman Lee said it was the job of the Red Bank Borough Council to support the merchants and if it was good for the businesses in Red Bank it was good for everyone. She said she had no problem with hearing the other presentation but she felt, first and foremost, their primary objective should be to promote Red Bank businesses.

Councilwoman Horgan said she agreed with Councilwoman Lee that they need to support the local businesses, but she did not want to vote on the request at this time.

Councilman Murphy again noted that there were plenty of other weekends available between the requested date and Labor Day and he had no problem with voting on the issue of this meeting.

Mayor Menna noted that there was a motion and a second to accept the proposal for the requested date rather than discussing it further. Councilman DuPont said it would be subject to the approval of the Special Events Committee.

Administrator Sickels said he wanted to note a couple of facts. He said the first request for the date came from the Riverfest organizers and the Jazz and Blues Foundation request had just come in earlier in the day. He also pointed out that the Jazz and Blues Foundation hadn't held the event in Red Bank this year because of the renovations to the park.

A discussion followed to clarify that a vote would approve the dates for use of the Riverfest organizers and the Jazz and Blues Foundation would be welcome to present a proposal for an alternate date.

Councilman Murphy said the event being considered was about supporting local businesses and local bands.

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.

Councilwoman Horgan and Councilman Murphy noted that they voted in favor of the approval with the caveat that the Jersey Shore Jazz and Blues Foundation would be invited to propose an alternative date.

Mayor Menna read a request from Jersey Shore Jazz & Blues Foundation for use of Marine Park to hold the Jersey Shore Jazz & Blues Festival on June 3, 4 & 5, 2011, pending approval of the Special Events Committee.

Councilman DuPont offered a motion to deny the request, seconded by Councilwoman Lee.

ROLL CALL:

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

NAYS: None

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

Mayor Menna read a request from St. Anthony's Church, Monmouth Day Care Center and Red Bank Elks Lodge No. 233 for raffle licenses.

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 Hamilton Jewelers to change street closure time for Ferrari Rally from Noon-5 p.m. to 8 a.m.-6:30 p.m.

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

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 St. Anthony's Church to hold the 4th Annual Sunset Gathering at the Two River Theatre on Saturday, September 18, 2010, pending approval of the Special Events Committee.

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

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 Count the Children Movement to hold the "I-Build, U-Build, We-Build...A Better Community Family Day" in Count Basie Park on Saturday, August 2, 2010 with a rain date of Sunday, August 22, 2010 from 12 p.m. to 9 p.m., pending of the Special Events Committee.

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

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 Gaetano's Restaurant to hang a banner on Wallace Street to celebrate their 10th Anniversary, pending approval of Jersey Central Power and Light.

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

ROLL CALL:

AYES: Lewis, Zipprich, Horgan, Lee, Murphy

NAYS: None

ABSTAIN: DuPont

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

Mayor Menna read a request from Timothy Oakerson for membership to Relief Engine Company of the Red Bank Volunteer Fire Department.

Councilman Murphy 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.

Mayor Menna read a request from The Junior League of Monmouth County to hang a banner on Broad Street from November 1, 2010 to December 4, 2010 to advertise their annual *Home for the Holidays Shopping Boutique* to take place at the Two River Theater from December 2-4, 2010.

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

There was no public comment.

ORDINANCES – First Reading

2010-24 Mayor Menna read, “ORDINANCE OF THE BOROUGH OF RED BANK, AUTHORIZING AN AGREEMENT TO PROVIDE UNIFORM FIRE CODE SERVICES TO THE TOWNSHIP OF MIDDLETOWN PURSUANT TO THE INTERLOCAL SERVICES ACT.”

Mayor Menna recused himself from discussion and Council President Murphy stepped in to preside over the meeting.

Administrator Sickels explained that this was an enabling ordinance which would allow the Borough to negotiate an agreement with the Township of Middletown. Once the Administrators of both towns negotiate a potential agreement for the interlocal services of Fire Code Enforcement, he continued, the agreement would be subject to approval by both municipalities separately by resolution.

Councilwoman Lee asked if the Borough had enough manpower to handle the potential volume that Middletown might require. Mr. Sickels said that under the Uniform Fire Code, there are registration fees, life hazard use fees and business registration fees, that Middletown businesses would pay into a separate account and Red Bank would hire part time staff that would conduct the enforcement. He said Middletown would also provide office space and clerical staff. He noted that the details of the agreement had yet to be worked out. Councilwoman Lee asked about Middletown’s current staffing. Mr. Sickels said the Township was currently deficient in staff.

Councilman Murphy asked how many inspections per year Red Bank would pick up from Middletown. Administrator Sickels said he couldn’t say off the top of his head. Councilman Murphy asked how many part time employees he anticipated hiring. He said, at first look, he estimated four part time people. Councilman Murphy asked if only part time staff would be hired. Mr. Sickels confirmed that was the case. Councilman Murphy asked about vehicles. Mr. Sickels said Middletown would provide the vehicles. Councilman Murphy asked if they would be working out of an office in Middletown or in Red Bank. Mr. Sickels said Middletown had a Fire Prevention Office that they would use, the records would be maintained there and they would provide clerical staff. Councilman Murphy asked who would be paying the clerical staff. Mr. Sickels said Red Bank would collect the fees, pay the inspectors and share the costs of the secretaries. He said expenditures would be accounted for to that account. Councilman Murphy asked if there would be a positive cash flow for Red Bank. Mr. Sickels said there would be compensation for the Borough’s supervisory services and it would be a benefit to the Borough.

Councilwoman Lee asked how many other towns Red Bank was services at this time. Mr. Sickles said they were servicing Little Silver.

Councilman DuPont noted that Mr. Sickels had run a spreadsheet showing that it was beneficial for Red Bank in terms of revenue. Mr. Sickels noted that he was talking in generalities because the ordinance would allow them to develop the agreement and there was no agreement currently in place. He said if it didn’t make sense to either town, they wouldn’t go through with it.

Councilman Murphy clarified that the vote tonight would only authorize the negotiation of the contract. Councilwoman Lewis asked if the Council would have a chance to see the agreement. Administrator Sickels said they absolutely would. Councilman DuPont said the Council would have to approve it. Mr. Sickels noted that Middletown has to do a similar ordinance and then the agreement could be negotiated. He said both governing bodies would then review and approve the agreement by resolutions.

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

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 for June 28, 2010.

Mayor Menna returned to preside over the meeting.

2010-25 Mayor Menna read, "ORDINANCE OF THE BOROUGH OF RED BANK, COUNTY OF MONMOUTH, NEW JERSEY AUTHORIZING SANDWICH BOARD SIGNS."

Mayor Menna said the suggestion for the ordinance came from Councilman Zipprich and his committee and he also noted that he had reached out to the State agencies to have them review it.

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

ROLL CALL:

AYES: Lewis, Zipprich, DuPont, Horgan, Murphy

NAYS: Lee

There being five ayes and one nay, the ordinance was declared adopted on first reading.

Public hearing and final adoption scheduled for June 28, 2010.

ORDINANCES – Final Adoption Only

2010-21 Mayor Menna read, "ORDINANCE OF THE BOROUGH OF RED BANK, COUNTY OF MONMOUTH, NEW JERSEY AMENDING AND SUPPLEMENTING CHAPTER XXV, PLANNING AND DEVELOPMENT REGULATIONS, SUBSECTION 8.14, "FENCES AND HEDGES."

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 Councilman Zipprich.

ROLL CALL:

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

NAYS: None

There being six ayes and no nays, the public hearing was declared closed.

Mayor Menna noted that the Council had received a letter of approval from the Planning Board that the Ordinance was consistent with the Master Plan.

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 ordinance was declared adopted on final reading.

2010-22 Mayor Menna read, "ORDINANCE OF THE BOROUGH OF RED BANK, COUNTY OF MONMOUTH, NEW JERSEY AMENDING AND SUPPLEMENTING THE CHAPTER XXV, PLANNING AND DEVELOPMENT REGULATIONS, SECTION 25-5.32, "TRAIN STATION DESIGN DISTRICT REGULATIONS," SECTION 10.14, "REGULATIONS CONTROLLING BUSINESS RESIDENTIAL-1 DISTRICT," SECTION 10.19, "REGULATIONS CONTROLLING BUSINESS RESIDENTIAL-2 DISTRICT, SECTION 10.22, "REGULATIONS CONTROLLING THE TRAIN STATION OVERLAY DISTRICT."

Mayor Menna said the Planning Board had reviewed the Ordinance and had some questions so they did not send a letter of approval yet. He said they would be able to entertain comments from the public, but they would not be taking a final vote at this time.

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

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

ROLL CALL:

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

NAYS: None

There being six ayes and no nays, the public hearing was declared closed.

Councilman DuPont offered a motion to carry the ordinance to the meeting of July 26, 2010, seconded by Councilman Zipprich.

ROLL CALL:

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

NAYS: None

There being six ayes and no nays, the ordinance was carried.

RESOLUTIONS

10-140 Mayor Menna read “A RESOLUTION AUTHORIZING THE BOROUGH ENGINEER TO ADVERTISE FOR BIDS FOR THE 2010 ROAD PROGRAM.”

Councilman Zipprich 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.

10-141 Mayor Menna read “A RESOLUTION AUTHORIZING RELEASE OF PERFORMANCE GUARANTEES AND ACCEPTING A MAINTENANCE GUARANTEE REGARDING 28 LEROY PLACE, L.L.C., 28, LEROY PLACE, BLOCK 104, LOT 17.”

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

ROLL CALL:

AYES: Lewis, Zipprich, Horgan, Lee, Murphy

NAYS: None

ABSTAIN: DuPont

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

10-144 Mayor Menna read “A RESOLUTION AUTHORIZING CHANGE ORDER NO. 3 (FINAL) RELATED TO THE CONTRACT WITH ELECTRICAL DESIGN & CONSTRUCTION CORP. FOR THE WATER SYSTEM IMPROVEMENTS PROJECT.”

Councilwoman Lee 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.

Councilwoman Horgan said she wanted to note that it was a reduction.

10-145 Mayor Menna read “A RESOLUTION SUPPORTING THE COASTAL MONMOUTH PLAN AND ENCOURAGING THE MONMOUTH COUNTY PLANNING BOARD TO ADOPT THE PLAN.”

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.

10-146 Mayor Menna read “A RESOLUTION AUTHORIZING RENEWAL OF PLENARY RETAIL CONSUMPTION LICENSES 2009-2010.”

Councilman Murphy offered a motion to approve the resolution, 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 resolution was declared approved.

10-147 Mayor Menna read “A RESOLUTION AUTHORIZING RENEWAL OF PLENARY RETAIL CONSUMPTION LICENSES 2010-2011.”

Councilwoman Lee offered a motion to approve the resolution, 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 resolution was declared approved.

10-148 Mayor Menna read “A RESOLUTION AUTHORIZING RENEWAL OF PLENARY RETAIL DISTRIBUTION LICENSES 2010-2011.”

Councilwoman Lee offered a motion to approve the resolution, 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 resolution was declared approved.

10-149 Mayor Menna read “A RESOLUTION AUTHORIZING RENEWAL OF CLUB LICENSES 2010-2011.”

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

ROLL CALL:

AYES: Lewis, Zipprich, Horgan, Lee, Murphy

NAYS: None

ABSTAIN: DuPont

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

10-150 Mayor Menna read “A RESOLUTION REQUESTING APPROVAL OF THE DIRECTOR OF THE DIVISION OF LOCAL GOVERNMENT SERVICES TO ESTABLISH A DEDICATED TRUST BY RIDER FOR THE ACCEPTANCE OF FUNDS COLLECTED AS PERFORMANCE AND MAINTENANCE GUARANTEES FOR LAND DEVELOPMENT AND FOR REVIEW OF DEVELOPMENT APPLICATIONS AND PLANS.”

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

ROLL CALL:

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

NAYS: None

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

10-151 Mayor Menna read “A RESOLUTION AUTHORIZING CREATION OF CHANGE FUNDS.”

Councilwoman Lewis 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.

10-152 Mayor Menna read “A RESOLUTION TO CANCEL 1998 SIDEWALK IMPROVEMENT ASSESSMENTS.”

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.

10-153 Mayor Menna read “A RESOLUTION AUTHORIZING ACCEPTANCE OF PERFORMANCE GUARANTEES AND INSPECTION ESCROW REGARDING GUY JOHNSON/THE RED BANK ANTIQUE CENTER, 218 WEST FRONT STREET, BLOCK 4, LOT 16.”

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

ROLL CALL:

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

NAYS: None

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

10-154 Mayor Menna read “A RESOLUTION AUTHORIZING ACCEPTANCE OF PERFORMANCE GUARANTEES AND INSPECTION ESCROW REGARDING ACELERO LEARNING CENTER, 144 DRS. JAMES PARKER BOULEVARD, BLOCK 77, LOTS 23 & 24.”

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

ROLL CALL:

AYES: Lewis, Zipprich, Horgan, Lee, Murphy

NAYS: None

ABSTAIN: DuPont

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

PROCLAMATIONS

PAYMENT OF VOUCHERS

10-155 Mayor Menna read “A RESOLUTION FOR PAYMENT OF BILLS AMOUNTING TO \$4,016,400.11.”

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

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

Councilman DuPont said he wanted to note that Art's Barber Shop, on Monmouth Street was 100 years old adding that Art had there for approximately 40 or 50 years. He said, while it hadn't been manned by Art the entire time, it had been present on Monmouth Street for 100 years. Mayor Menna noted that it was formerly Sole's Barbershop. Councilman DuPont said he would like to do a proclamation for the shop.

Councilman Zipprich said he wanted to commend the Safe Routes team and the Red Bank Police Department for a job well done at the Bicycle Rodeo on Saturday. He said it was well attended and helmet were provided to children without them from the Brain Injury Institute of New Jersey.

NEW BUSINESS

AUDIENCE

Kevin Tauro—CWA 1038—said he wanted to speak on behalf of the DPW and Clerical workers for the Borough of Red Bank. He strongly urged the Mayor and Council to accept their proposal that would close the budget gap and restore some sense of fairness to the lowest paid workers in town.

Bill Myer—12 Monmouth Street—said he wanted to ask about the status of 51 Monmouth Street. He said he had read the complaint and the answer.

Attorney Pringle and Councilman DuPont recused themselves from the discussion.

Mr. Myer said he wanted to see the historic building back in the hands of the town. He said it was given away for a dollar and he felt, before any of the complaints were filed, that the proper statute was the one in the original ordinance addressed by then-Borough Attorney O'Connor that provided for a reverter clause. He said it was common sense that one couldn't give away Borough property for a nominal amount, especially, he added, one with such value. He said it was given away under circumstances he had issues with and he felt the reverter clause should have been made crystal clear on the deed with reference to the appropriate State statute. He said he had read the complaint and realized that it was an oversight. He said he didn't see a clear indication in the pleadings that the reverter clause should have kicked in which he thought would have been occurred with the merger with the YMCA. He said he felt the community was being left in the dark and hadn't been apprised of what was going on with the building. He said there were other issues he didn't think were raised in the pleadings. He questioned former Mayor McKenna's role in the original discussions. He said he was also concerned about a document, that he said he would forward to Mayor Menna for his review, that he believed implied that there was an issue with the charitable status of the corporation at some point. He said he just wanted to know that the town was doing everything possible to ensure that the building comes back to the Borough. He said another thing he had issue with was that, in order for the building to be given to a charitable corporation for one dollar, there had to be a finding that the Borough didn't need the property, yet there was clearly a fire house in the building that the Borough wanted to make sure it didn't lose because it was needed. He said he thought it was appropriate due to some of the questions that had been raised regarding conflicts, that, before a legal decision is made, the public be allowed to participate.

Mayor Menna explained that the Borough had been sued regarding 51 Monmouth Street and he said he could assure everyone that the Special Counsel was pursuing not just an answer to the plaintiff's complaint, but had made some affirmative defenses and counter claims on the two major issues. He explained that the Borough's position had always been that it was public property and the second issue was regarding whether any funds were due to the YMCA for work done on the fire house. He said he could assure everyone that those issues were being litigated and that, as of last week, there was nothing that would change the posture of the current litigation, such as a settlement or trial, on the horizon that he knew of adding that Special Counsel Bonnell reported to him on a regular basis. He again stated that the matter was being forcefully litigated on all of the issues. If at some point, he continued, as a result of court intervention, the Council had to make some final decisions on the settlement or resolution of that litigation, it would have to be in a public forum. He said the public would be aware of the issues when they were free to discuss it openly.

Mr. Myer asked the Council to be certain before it gets to that point, that there was full accounting and full discovery. He said he had heard all types of numbers as to how much money went into the building. He also express concern about the transfer of ownership to the YMCA noting that, under the State statute, there were certain uses that the building could not be use for adding that he believed that transfer should have triggered the reverter clause. He said he was also concerned that there be full discovery about the amount of money that went into the building and where it came from.

Mayor Menna said he would welcome some answers to some of the same questions but noted he was unable to respond because of the litigation and suggested Mr. Myer pose the questions to the YMCA Board of Directors.

Mr. Myer again questioned the charitable status of the organization. Mayor Menna said they may be legitimate questions, but the Council wouldn't have the answers.

EXECUTIVE SESSION

10-156 The Attorney read a resolution to adjourn to executive session to discuss personnel and contract negotiations

Councilman Murphy offered a motion to adjourn to executive session to discuss personnel and contract negotiations seconded by Councilman Zipprich. 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 adjourn from executive session, 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.

ADJOURNMENT

Councilman Zipprich offered a motion, seconded by Councilwoman Lewis 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