

**MINUTES  
REGULAR MEETING  
MUNICIPAL COUNCIL – BOROUGH OF RED BANK  
OCTOBER 25, 2010  
6:30 P.M.**

**PLEDGE OF ALLEGIANCE**

**ROLL CALL**

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

ALSO PRESENT: Administrator Sickels, Municipal Clerk Borghi, Assistant Attorney Hall, Engineer Ballard and Chief Financial Officer Mason.

ABSENT: Council Members Lewis and DuPont, Attorney Pringle 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 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.

Mayor Menna noted that there had been a change to the agenda which was regarding a request from Pilgrim Baptist Church that had been withdrawn. He also said the Council would not be taking formal action on 2010-22 regarding the train station overlay district because it was still under planning board review.

Councilman DuPont arrived at 6:35 p.m.

**WORKSHOP**

**Monmouth County JIF Renewal**—Mayor Menna noted that the Borough had been an early participant in the fund and its track record with the fund had been stellar. He said every year the Borough had received a premium.

Mike Avalone, Risk Management Consultant to the Monmouth County Joint Insurance Fund, introduced himself and said Red Bank had been a Charter member of the fund since it was founded in 1988. He said the MCJIF was one of the most successful insurance funds adding that any surplus was returned to the municipality. He said the fund was proto-typical of shared services and projected that for 2011 the cost would be below the two percent budget cap. He distributed and reviewed a packet of information about the fund including financial specifics such as costs and dividend. He said dividends were expected into 2012.

Councilman DuPont noted that 33 municipalities participated in the shared service and reviewed that the Borough had received a dividend of approximately \$67,000 for 2009 and \$82,000 for 2010. He noted that RFPs were done and an annual audit was also done. He said, in regard to transparency, the Borough had done its due diligence and the Finance Committee was recommending staying with the MCJIF.

Mayor Menna credited Red Bank's former CFO and a founding trustee of the MCJIF, Bruce Loversidge, with the Borough's success with the organization. He reiterated that the Borough had put out RFQs for the service and no organization had been able to come up with a comparable saving for the municipality. He added that, in light of what had happened regarding increases to the State plan, the Borough was fortunate to have pooled resources with surrounding municipalities and save some money.

**APPROVAL OF MINUTES** – October 11, 2010

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

**ROLL CALL:**

AYES: Zipprich, DuPont, Horgan, Lee, Murphy

NAYS: None

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

## **MAYORAL APPOINTMENTS**

None.

## **REPORTS OF MAYOR AND COUNCIL MEMBERS**

Councilman Murphy said, in Councilwoman Lewis' absence he wanted to thank the Police, First Aid, Fire Department, Ladies Auxiliary and Fire Police for their assistance with the Halloween Parade over the previous weekend. He said the parade went well and thanked the Parks and Recreation Committee for their efforts.

Councilwoman Lee urged everyone to look at the Borough website to see the winners of the parade's costume contest.

Councilwoman Horgan reported that the Fair Trade Town Committee had put together a showcase house the previous weekend and that she and Councilman Zipprich had attended. She said it was the first of its kind. She described the event noting that it gave information on eco-friendly home items. She said 200 people came through the location and there was a lot of excitement about it. She said it was a positive event for the community and for the approximately ten businesses that participated. She said they were looking forward to doing it again next year. She also reported that the Environmental Commission would be meeting the next evening at 7 pm and a representative of the Monmouth County Planning Board would be attending to discuss storm water projects.

Councilman Zipprich reminded residents that flu vaccines were available through the Monmouth County Regional Health Commission and the Visiting Nurse Association of New Jersey. He also reported that the Code Enforcement Committee would be meeting in the second week of November. He also congratulated Councilwoman Horgan on the success of the Fair Trade Town Show House. He complemented Parks and Recreation Director Memone Crystian on her first successful Halloween Parade and thanked resident Joyce Williams for her support of the event.

Councilman DuPont reported that the schools were still collecting shoes for Soles4Souls and they hoped to have the truck at the Middle School in a couple of weeks. He encouraged everyone to donate new or gently used shoes.

## **COMMUNICATIONS AND PETITIONS**

Mayor Menna read a request from the Sandy Hookers Tri Club to hold the 2<sup>nd</sup> Annual Red Bank Triathlon and for use of Marine Park on Saturday, May 14, 2011 and Sunday, May 15, 2011, pending approval of the Special Events Committee.

Mayor Menna congratulated the Triathlon Committee for the success of their recent event which would become part of the annual calendar.

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

### **ROLL CALL:**

AYES: Zipprich, DuPont, Horgan, Lee, Murphy

NAYS: None

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

Mayor Menna read requests from Red Bank Catholic High School PTA, St. Anthony's Church, St. James Grammar School PTA, Red Bank Elks Lodge No. 233, Beauty Foundation for Women's Cancer Care and Bates Lodge #220 IBPOE of W for raffle licenses.

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

### **ROLL CALL:**

AYES: Zipprich, DuPont, Horgan, Lee, Murphy

NAYS: None

There being five ayes and no nays, the requests were declared approved.

Mayor Menna read a request from Westside Community Group to hold its annual winter holiday and tree lighting event at the corner park located at Shrewsbury Avenue and Drs. James Parker Boulevard on Saturday, December 4, 2010 from 4 to 5 p.m., pending approval of the Special Events Committee.

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

ROLL CALL:

AYES: Zipprich, DuPont, Horgan, Lee, Murphy

NAYS: None

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

Mayor Menna read a request from Liberty Hose Company to hold the annual Robert "Doc" Holiday memorial car show on Sunday, July 10, 2011 with a rain date of Sunday July 17, 2011 in the White Street Parking Lot and to close White Street from 7 a.m. to 4 p.m., pending approval of the Special Events Committee.

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

ROLL CALL:

AYES: Zipprich, DuPont, Horgan, Lee, Murphy

NAYS: None

There being five ayes and no nays, the request 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 appearing, Councilman DuPont offered a motion to close the public comment portion of the meeting, seconded by Councilman Murphy.

ROLL CALL:

AYES: Zipprich, DuPont, Horgan, Lee, Murphy

NAYS: None

There being five ayes and no nays, the public comment portion of the meeting was declared closed.

#### **ORDINANCES – First Reading**

#### **ORDINANCES – Public Hearing**

2010-34      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 NEW SECTION 25-8.40, "OUTDOOR STORAGE OF MATERIALS, PERMANENT AND TEMPORARY."

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 Murphy.

ROLL CALL:

AYES: Zipprich, DuPont, Horgan, Lee, Murphy

NAYS: None

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

Mayor Menna noted that Ordinance would have to be forwarded to the Planning Board for review and the final adoption would be scheduled for the meeting of November 8, 2010

### **ORDINANCES – Public Hearing & Final Adoption**

2010-22      Mayor Menna read, “AN ORDINANCE AMENDING AND SUPPLEMENTING 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 ordinance was on for public comment and the Council would welcome comments, but the Planning Board had not yet submitted their final report so there would be no vote at this meeting. He said final action would be carried to the meeting of November 22, 2010 pending receipt of a report from the Planning Board.

Councilwoman Horgan offered a motion to carry the ordinance, seconded by Councilman Zipprich.

#### **ROLL CALL:**

AYES:      Zipprich, DuPont, Horgan, Lee, Murphy

NAYS:      None

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

2010-28      Mayor Menna read, “ORDINANCE OF THE BOROUGH OF RED BANK, COUNTY OF MONMOUTH, NEW JERSEY AMENDING AND SUPPLEMENTING CHAPTER IX, “LICENSING OF TAXICABS.”

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

Peter Muller—Princeton Street, Middletown (Red Bank mailing address)—told the Council of his desire to obtain an additional license for his taxi business and the difficulties he had by operating with only one. He also said he was taken back by comments at a recent meeting made by Borough Officials who said they wanted a “piece of the pie.”

Gary Diamanti—Yellow Car Company, 101 Oakland Street—said he wanted to thank the Council for keeping an open mind. He said they were appreciative of the some of the changes that had been made to the ordinance and said he thought the Council had always been fair. He said the only portion of the ordinance they still had an issue with was the section regarding increasing the number of licenses from 45 to 50. He said the issue was considered approximately a year and a half ago and it was determined that there was no public demand. He said he had done research and found that larger towns had fewer cabs and kept a waiting list rather than auctioning new licenses. He said he didn’t feel there should be licenses added just because other owners wanted them but felt there should be public demand. He said the economic times made it difficult for the current drivers to make a living. He said he also felt that if competition was the goal, he felt that if the five licenses were added, they would go to existing businesses so wouldn’t transform services. He also said the additional licenses would dilute the income of the existing drivers. He also said several years ago there were plenty of licenses available that were taken by Murphy Cab and Above All. He questioned why the interested owners didn’t act on obtaining a license then. He said he felt it would be a dangerous precedent to offer the licenses without public demand.

Mayor Menna told Mr. Diamanti he appreciated his input and said he felt the version of the ordinance on the table now was much better because of it. He thanked the cab owners for participating.

Mr. Diamanti repeated that he thought the Council had always been fair.

Several drivers came forward to tell the Council of the lack of work and limited income they were seeing.

Andrew Curtin—Yellow Car—also noted that driver’s were making less and less and that demand for the service was down while expenses were high. He also expressed concern that if more licenses were added, companies will be requesting more and more. He reviewed statistics from other towns. He criticized the portion of the ordinance that requires the licenses to be sold as part of the business saying it would make it difficult for him to downsize. He distributed a map to the Council showing what it would look like if every licensed cab was on duty in town at the same time.

Diane Igri—Above All Taxi—said she agreed with the previous speakers noting that there was a lot of down time with the vehicles. She also said creating more licenses and offering them for bid would not create a healthy competition. She also questioned the need for the five additional licenses.

Bob \_\_\_ — of Yellow Car – said he was in support of Yellow Car noting that he worked there and spoke of the problems in the current economy.

Chris Igri—Above All Taxi—said he was concerned about how licenses would be distributed. He said he needed more licenses but questioned the plan to put them out to bid adding that whoever had the most money would win. He said, while he respected what representatives of Yellow Car had to say, he asked the Council to keep in mind that they were all from one company so the comments were one sided. He said he felt the town didn't need more companies to come to town, but if also didn't think it was fair to have everything monopolized by one.

Peter Muller—Princeton Street—accused Yellow Car of intimidating its drivers to get them to appear. Mayor Menna said that was not an issue before the Council. Mr. Muller stressed that two companies had ownership and control of over 80 percent of the cars and described why there was a need for more cabs.

Bob \_\_\_ —said he wanted to state that he had attended the earlier meeting and had no recollection of Borough Officials asking for a “piece of the pie.” He also stated that there were four cab companies in a town of 1.8 square miles and that they could do the job. He also noted that there had not been a call from the private sector asking for more cabs.

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

**ROLL CALL:**

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

**NAYS:** None

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

Councilman DuPont said he was hesitant to create new licenses. He noted that there had been no resident complaints about lack of service. He said he was also bothered by the increase in rates in this economy. He said he was unaware that New Brunswick had so many less in a larger area. He also pointed out that the Council had pledged to be sympathetic to business and the increase would impact both residents and businesses. He suggested they deny the ordinance.

Councilwoman Horgan said she had understood that the purpose of the earlier meeting was to come to a final agreement and that the ordinance would represent that. Administrator Sickels said that there was not an agreement on all points.

Councilwoman Lee asked Mr. Diamanti how the ownership or distribution of licenses worked. Mr. Diamanti stated that everyone who contracts with Yellow Car owns their own license outright and it was voluntary if they chose to use the Yellow Car dispatching service. He added that if they don't like the dispatching service, they can choose to operate independently. He said the dispatching company does not hold a taxi license with the town. Councilwoman Lee asked Gary if he owned any licenses. He said he owned eight. She clarified that the Yellow Car Company was a dispatching service only and held no licenses but only contracted the dispatching service. Mr. Diamanti confirmed that was the case and noted drivers were free to leave and work on their own. Ms. Lee asked if the company had contracts for taxi service. He said there were some but not many. He explained the benefit that owners received by contracting with the company.

Councilman Murphy asked Mr. Diamanti if he was with Yellow Car or Yellow Cab. Mr. Diamanti said it was Yellow Car. Mr. Murphy asked if Mr. Diamanti's held eight licenses under his name. He said that he held them under a separate business name. Councilman Murphy asked how many cars were dispatched through Yellow Car and if it was just the eight. Mr. Diamanti said there were 26 licensed cars that use the Yellow Car dispatching service. Mr. Murphy clarified that eight of those were owned by Mr. Diamanti and that the other cars were in other individuals' names. He asked if those who had gotten up to speak were individual owners. Mr. Diamanti said some were owners and some were just drivers. Councilman Murphy said he viewed the ordinance as a way to put five more people to work but understood that Mr. Diamanti felt that five more cabs would dilute the market. Mr. Diamanti agreed and discussed the ongoing competition. Councilman Murphy he had heard comments about the quality of cabs and felt that competition wasn't the only consideration but felt it would put five more people to work. He also noted that Mr. Diamanti had cited New Brunswick for comparison but asked if he had information on adjacent towns such as Tinton Falls, Eatontown or West Long Branch. Mr. Diamanti said the economic indicator

he used was the train station and noted that the cabs were piled up there. He said if he thought he could make more money he would be bidding on a license and he did not plan to. Mr. Murphy said the train station was "easy pickings" and asked who wouldn't wait there .

Administrator Sickels noted that all 45 of the cabs would not be on the road at the same time and could be down for service or vacation. At the same time, he continued, if a cab owner had only one car, it would be hard for him to keep in business if the car had to be serviced. Mr. Diamanti said preventive maintenance should be scheduled on a slow night. Mr. Sickels said the company with one car had to keep that car on the road and the incentive would be against putting it out for service while if he had a second license he could swap them out. Mr. Diamanti said the cost of operation would not make that practical.

Councilman Murphy thanked everyone for their comments and thanked them for coming in.

Councilman Zipprich noted that the Council had been going back and forth on the ordinance and he still had concerns adding that he thought it needed work or needed to be denied.

Councilwoman Lee said she would like to see it tabled so they could work on it. She said she did want to see a new ordinance but did not feel the Council was satisfied they had done due diligence to determine the need. She said she knew people had to wait for cabs in town and that cabs were lined up at the schools which was something that was not heard of years ago. She said she didn't know how the statistics would be gathered but wanted to know the number of cabs that the population could handle.

Mayor Menna said he thought the matter had been talked to death and asked the Council if they were in favor of increasing the number of cabs by ten percent or not. If the Council was not prepared to go that route, he continued, he didn't see the need to table it.

Councilman DuPont said that was why he had made the motion to deny it but that it wasn't simply regarding the increase of licenses but on the basis that the number of cabs seems to serve the residents. He also said the increase in fares is close to 18 percent and, while he didn't know when it was last raised, he felt that economically it shouldn't occur. He said there was also a cry from a business community that had been serving the Borough for a number of years and they were asking for relief and for those reasons he had made a motion to deny.

Mayor Menna said he didn't think they could do a motion to deny, but would need a motion to adopt which, if it failed to get a second, would die.

Councilman Murphy offered a motion to adopt the ordinance on final reading, there being no second the ordinance was defeated.

2010-31        Mayor Menna read, "ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER IV, GENERAL LICENSING, NEW SUBSECTION 4-15, "COMMERCIAL FILM MAKING."

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

Nancy Adams—RiverCenter—asked if local businesses would be exempt. Mayor Menna said they would and it was geared toward major productions. He added that the town had received requests from other municipalities looking to tailor ordinances based on this.

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

ROLL CALL:

AYES:        Zipprich, DuPont, Horgan, Lee, Murphy

NAYS:        None

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

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

ROLL CALL:

AYES:        Zipprich, Horgan, Lee, Murphy

NAYS:        DuPont

There being four ayes and one nay, the ordinance was declared adopted on final reading.

2010-33      Mayor Menna read, "ORDINANCE OF THE BOROUGH OF RED BANK, COUNTY OF MONMOUTH, NEW JERSEY AMENDING AND SUPPLEMENTING CHAPTER IV, GENERAL LICENSING, SUBSECTION 4-4, "TRANSIENT MERCHANTS; HAWKERS; PEDDLERS AND JUNK DEALERS."

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 Horgan.

ROLL CALL:

AYES:      Zipprich, DuPont, Horgan, Lee, Murphy

NAYS:      None

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

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

ROLL CALL:

AYES:      Zipprich, DuPont, Horgan, Lee, Murphy

NAYS:      None

There being five ayes and no nays, the ordinance was declared adopted on final reading.

2010-36      Mayor Menna read, "ORDINANCE OF THE BOROUGH OF RED BANK, COUNTY OF MONMOUTH, NEW JERSEY, TEMPORARILY SUSPENDING PARKING DEFICIENCY SCHEDULES IN THE BOROUGH'S PLANNING AND DEVELOPMENT REGULATIONS DURING ECONOMIC EMERGENCY."

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

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

ROLL CALL:

AYES:      Zipprich, DuPont, Horgan, Lee, Murphy

NAYS:      None

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

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

ROLL CALL:

AYES:      Zipprich, DuPont, Horgan, Lee, Murphy

NAYS:      None

There being five ayes and no nays, the ordinance was declared adopted on final reading.

## RESOLUTIONS

10-225      Mayor Menna read "A RESOLUTION FOR RENEWAL OF MEMBERSHIP IN THE MONMOUTH MUNICIPAL JOINT INSURANCE FUND."

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

ROLL CALL:

AYES: Zipprich, DuPont, Horgan, Lee, Murphy

NAYS: None

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

10-229 Mayor Menna read “A RESOLUTION AUTHORIZING CURFEW FOR OCTOBER 30 AND 31, 2010.”

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

ROLL CALL:

AYES: Zipprich, DuPont, Horgan, Lee, Murphy

NAYS: None

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

10-230 Mayor Menna read “A RESOLUTION REQUESTING SPECIAL ITEM OF REVENUE.”

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

ROLL CALL:

AYES: Zipprich, DuPont, Horgan, Lee, Murphy

NAYS: None

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

10-231 Mayor Menna read “MONMOUTH COUNTY BOARD OF CHOSEN FREEHOLDERS OPEN SPACE TRUST FUND ENABLING RESOLUTION COUNT BASIE PARK.”

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

ROLL CALL:

AYES: Zipprich, DuPont, Horgan, Lee, Murphy

NAYS: None

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

10-232 Mayor Menna read “A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A DECLARATION OF ENCUMBRANCE REGARDING THE 2010 RED BANK RECREATION AND OPEN SPACE INVENTORY (ROSI).”

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

ROLL CALL:

AYES: Zipprich, DuPont, Horgan, Lee, Murphy

NAYS: None

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

10-233 Mayor Menna read “A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A GRANT AGREEMENT WITH THE NEW JERSEY OFFICE OF HOMELAND SECURITY AND PREPAREDNESS FOR ITS CARS-E PROGRAM.”

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

ROLL CALL:

AYES: Zipprich, DuPont, Horgan, Lee, Murphy

NAYS: None

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

10-234 Mayor Menna read “A RESOLUTION AUTHORIZING SALE OF PERSONAL PROPERTY.”

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

ROLL CALL:

AYES: Zipprich, DuPont, Horgan, Lee, Murphy

NAYS: None

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

## **PROCLAMATIONS**

### **PAYMENT OF VOUCHERS**

10-235 Mayor Menna read “A RESOLUTION FOR PAYMENT OF BILLS AMOUNTING TO \$1,004,404.66.”

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

ROLL CALL:

AYES: Zipprich, DuPont, Horgan, Lee, Murphy

NAYS: None

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

## **OLD BUSINESS**

None.

## **NEW BUSINESS**

Councilman Zipprich said he had just been notified that Assemblywoman Huddles had recently introduced legislation to deal with harassment, bullying and intimidation. He also reported that President Obama had a website called [www.itgetsbetterproject.com](http://www.itgetsbetterproject.com) where he discussed his experience with being bullied as a young adult and his reaction to the bullying. He added that 43 members of the New Jersey Assembly had voted early in the day to support legislation that would protect our youth in schools and in college. In light of recent tragic suicides, he continued, he felt it was his duty to report on tools that were readily available to help end bullying in schools and colleges. He said they were [bullyinginfo.org](http://bullyinginfo.org) and a suicide hotline through the Trevor Project which was 866-4UTREVOR.

## **AUDIENCE**

Steve Fitzpatrick—said he was appearing to ask about the YMCA vs. Borough of Red Bank regarding 51 Monmouth Street.

Mayor Menna noted for the record that Councilman DuPont and Assistant Attorney Hall were stepping down. Mr. Fitzpatrick asked Mr. Murphy to also step down as he had previously done work on the project.

Mr. Fitzpatrick reviewed the extensive history of the issue. He read a letter that he said had been filed with the court by representatives of the YMCA which stated that basic terms had been agreed to which were that the property at 51 Monmouth Street, owned by the YMCA would be conveyed to St. James Catholic Church/Red Bank Catholic High School with a deed restriction but no reverter clause. He said the letter referred to actions to be taken at September Council meetings. He said he assumed those actions had not been taken.

Mayor Menna said there had been discussions but no settlement.

Mr. Fitzpatrick the letter referred to a appearance in the judge's chambers to put the terms of the settlement on the record. He said the Borough's Special Counsel Bonnello had represented that the Council would consider the approval at their next meeting. He said he just wanted to establish that there was a court record of the terms of the settlement.

Mayor Menna said the letter referred to proposed terms and added that both parties had been talking but that there had been no final agreement. He said any final agreement or settlement would be discussed in public session.

Mr. Fitzpatrick asked that, since there was a court record of details, would the Mayor offer details.

Mayor Menna said it would not be proper since it was still in litigation. He said the Borough's position from day one was that the building was a public purpose building and could not be sold to a for profit institution. He said there also had to be a comprehensive resolution to claims for alleged construction costs in regard to the firehouse and added that the Borough was not obligated to pay for mismanagement of the project.

Mr. Fitzpatrick asked officials to not overlook the reverter clause to protect the Borough's asset because the normal procedure would have been to put it out to public bid. Mayor Menna said that was correct and, in the event of a settlement, the reverter clause would have to remain. Mr. Fitzpatrick said that was why he was when he read the letter saying the reverter clause would be remove but the deed restriction would remain, which he said he assumed was regarding the firehouse. Mayor Menna said he did not know what the letter said because it was written by someone else and he wasn't sure what they meant.

Mr. Fitzpatrick said the reverter clause should remain and that the Borough Council didn't have the right to waive it because the right belongs to the residents. He also quoted a state statute that would prevent the property from being transferred to a sectarian or religious organization and questioned whether or not a proposed transaction with St. James was possible.

Administrator Sickels noted that the matter was still before the judge and final documents had not been received from the Borough Attorney and the point Mr. Fitzpatrick was making would be decided by the judge. He also said there may have been some revision to the statutes but whatever the Borough decided would be in accordance with the statutes. He said once they receive the final documents from the Attorney the matter would come back before the Council for public action.

Mr. Fitzpatrick asked if the settlement would be attached to the resolution. Mayor Menna said it would have to be in the interest of clarity and full disclosure.

Mr. Fitzpatrick said that the YMCA had claimed they had not been receiving all of the documents from Borough Special Counsel Bonnello. Mayor Menna said he was not involved in the details of the litigation and that it was between the attorneys.

Mr. Fitzpatrick also noted that he had made OPRA requests on the matter and there were still 64 documents that were not provided to him.

William Meyer—12 Monmouth Street—said he had a lot of problems with the same issue. He said he had been unimpressed with what had happened with the matter from the beginning up to today. He said there were multiple ordinances on this subject presided over and signed by Mayor McKenna. In reviewing the minutes, he said, he saw that the statement was made that the building wasn't needed but the Borough had to keep the firehouse. He also questioned Mayor McKenna's participation in the process when was a principal in the Children's Cultural Center which was the organization that received the building for a dollar. He did note that Mayor Menna had not signed the deed but believe it had been then Councilman Menna.

Mayor Menna said he had signed it at the time as Council President on the advice of Borough Attorney O'Connor.

Mr. Meyer reviewed the circumstance in which the building could be given for a dollar which included that it was no longer needed but it was needed for the firehouse. Mayor Menna asked if Mr. Meyer could concede that you could bifurcate the use of a building and transfer some but not all. Mr. Meyer said he could not. He also questioned the connection of each current Councilmember with Mayor McKenna. Several Councilmembers took issue with the statement.

Mr. Meyer noted that if the proposed sale went through it would be to a tax exempt entity. He again stated that the building was still needed. Councilman Zipprich asked Mr. Meyer if the YMCA was not tax exempt. Mayor Menna clarified that the building is currently tax exempt. Mr. Meyer said he held St.

James, Red Bank Catholic and the YMCA in high regard but noted that the Statute said the building cannot go to an entity with a political or religious purpose and reviewed the intent of the reverter clause.

Administrator Sickels noted that Mr. Meyer and Mr. Fitzpatrick were missing a key point which was that the Borough had paid architects to do condition assessments of the public buildings, including 51 Monmouth Street to determine if they should be renovated and brought up to code to comply with the Americans with Disabilities Act. He added that, at the time, the building was in such disrepair that the Court Clerks would sit at their desks with umbrellas and the repair to the historic slate roof and bring the building up to ADA compliance would have been an exorbitant cost. Mr. Sickels said the condition assessment set the building's value at \$199,000 and said the best use would be demolition. At the time, he continued, the Council decided not to renovate 32 Monmouth Street which contained the other half of the Borough's operations and they chose to move to the current location. He said the building was historic, architecturally significant and contained a firehouse and war memorial. He said it was not Children's Cultural Center that came forward, but Kids Bridge, an organization with a Board of Directors in Trenton. He said at some point other Borough officials became involved and it became the Children's Cultural Center of Red Bank when Kids Bridge folded. Mr. Sickels again noted that the building was in very poor condition and had been gutted when the ordinances were considered. He said it was not a building that could be given away for a dollar then taken back and used. He said the subsequent owners of the building put a lot of money into it. He said the Borough couldn't just take the building back given the fact that all the money had been put into it.

Mayor Menna said they were going too far into the factual details of the issue. He said Mr. Meyer could respond, but he didn't want to take the line too far.

Mr. Meyer discussed figures provided by SOME Architects and said it wasn't a lot of money considering the value of buildings in the Borough and the historic nature of that particular building. He questioned the statement that the best use was to demolish it. He noted that many buildings see improvements by tenants that get eliminated by the next tenant. He said the building owners knew they had gotten the building for free and probably knew there would be no consideration for the improvements and there was a statute for a reverter clause. He said, once there was a tenant that was a political or religious organization, they were in violation of the statute and it was inappropriate. He said he had also previously presented a document that showed that Mayor McKenna was president of the corporation that was Children's Cultural Center and said they had lost their non-profit status and he wanted to know why and that it should be determined as part of the discovery of the litigation. He continued to question Mayor McKenna participation in the process.

Mayor Menna said Mr. Meyer's concerns were duly noted.

Mr. Meyer said, as per the sunshine law, the matter should be discussed in the public session. He again referred to a connection between Councilmembers and people who were involved in the process and that those Councilmembers were making decisions on the matter.

Councilman Zipprich said he took offense to the allusion that there were connections.

Mr. Meyer stated that Mayor Menna had signed the deed and Mr. Sickels was the Administrator at the time. He questioned the Council discussing the issue in Executive Session and said the public needs the opportunity to hear everything.

Mayor Menna said it would be done in due course. Mr. Meyer said they don't know what had been done in litigation. Mayor Menna said they would know. He also said he knew Mr. Meyer had been involved with litigation with municipalities and knew that the issue could not be discussed.

Cindy Burnham—Harrison Avenue, Fair Haven—asked about resolution 10-232 regarding the Recreational Open Space Inventory. Engineer Ballard said it would add part of Marine Park to the inventory. Administrator Sickels said it would not change anything else that was already on the list.

Ben Forrest—16 Locust Avenue—said he wanted to speak on the taxi ordinance and said the Council's policy of encouraging competition had been very successful and said he was happier with the service because of it. He said he wasn't sure how he felt about the ordinance that was presented but he still had concerns with horn blowing issues.

Jamie Thomas—Sandy Hookers—said he wanted to thank the Mayor and Council for embracing their organization and for welcoming them back next year. He said the town was the perfect setting.

Judy Pettiti—226 Broad Street—said she was appearing because they were having issues with their property.

Assistant Attorney Hall interrupted to say that due to the fact that the Petitti's were in litigation in tax court, he would advise the Council not to respond. He said they were welcome to make their statement.

Mr. Pettiti reviewed the history of a previous sale of their property that fell through. He said there was an issue with the fact that they were a residential property assessed at a professional rate. He said the property would require a parking variance and he didn't know if any business would be approved. He said they were having difficulty selling it as a residence and as a business. He compared his property to others in the area. He asked the Council to look at the issue.

Mr. Hall said the issue was a matter for the land use boards not the Council. He said if they wanted re-submit their proposal he would look at it. He suggested they have their attorney call him to discuss options.

Mr. Petitti reiterated the problems they were facing and said he would rather sell it as a business property.

Councilman DuPont said he knew they were in a difficult position which was partly due to market conditions but also having difficulty between residential and commercial issues.

Mayor Menna said he thought the issue was due to the particular purchaser's project that could have been addressed with minimal changes.

Councilman DuPont suggested that the Petitti's bring any prospective purchaser to discuss issues with the Borough's professionals.

Mr. Sickels also stated that they should not be concerned about potential commercial purchasers and that the previous application had some specific concerns.

Mr. Petitti said that was not the perception of people who had come to look at the house and said they don't want to incur the significant expense to be turned down.

Mayor Menna suggested the potential buyer make an informal presentation of a plan to the Planning Board for a nominal \$100 fee. He said the process is very helpful and informative and the purchaser would have a clear understanding.

Councilman DuPont offered a motion, seconded by Councilman Zipprich to close the audience portion and adjourn the meeting.

**ROLL CALL:**

AYES: Zipprich, DuPont, Horgan, Lee, Murphy

NAYS: None

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

Respectfully submitted,

Pamela Borghi