

**MINUTES
REGULAR MEETING
MUNICIPAL COUNCIL – BOROUGH OF RED BANK
MARCH 9, 2009
5:30 P.M.**

PLEDGE OF ALLEGIANCE

ROLL CALL

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

ALSO PRESENT: Administrator Sickels, Deputy Borough Clerk Borghi, Attorney Pringle, Assistant Attorney Hall, Engineers Ballard & Kosenski and Chief Financial Officer Mason.

ABSENT: Councilwoman Lewis and Borough Clerk Vivona.

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 1, 2009.

Mayor Menna announced that there was one change to the agenda tonight and that was under Suspended Regular Order of Business Resolutions 09-78 and 09-79 will not be heard tonight and will be tabled. He said the reason was the Council would not be taking any action regarding the introduction of the Municipal Budget tonight since the Governor be undertaking the State Budget address tomorrow and consequently we will have some more definitive answers to our budget picture as well as that which affects every other municipality in New Jersey.

Councilman DuPont reported that CFO Mason had informed him that he will have the final numbers in regard to a reduction to our health insurance costs so we can add those numbers in also.

WORKSHOP

Councilman DuPont said he had noticed that, a couple of weeks ago, Belmar had passed an anti-eminant domain statute. He noted that very often through out the year they get questions about whether or not they are going to condemn any properties and, rightfully so, they say no. He said, while there is State case law governing condemnations, it would be nice if they could entertain an anti-eminant domain statute just to correspond with the Mayor's reference that we are not condemning any property or taking it by eminent domain. He said he would like to have a copy of the Belmar statute available for the next workshop for discussion.

Councilman DuPont said he had had a couple of neighbors express concerns over pesticides in the park and about three weeks ago the Star Ledger ran an article about pesticide free towns growing noting that health concerns were fueling that trend. He said he would like to entertain a resolution or ordinance providing that our parks and rec areas be pesticide free. He said he had spoken to Councilwoman Horgan about it and would give her a copy of the article. He asked that the issue be place on the next workshop agenda.

Administrator Sickels said he thought that that may have already been done, if not by police, then by resolution at a prior meeting, maybe a couple of years ago. He said he would have the information for him at the next meeting.

Councilman DuPont noted that they promised the residents at the Economic Workshop that they were going to amend the Planning and Zoning ordinances to accommodate businesses and he said he hadn't seen it. Mayor Menna said the reason was that the Council reopened the public process for public comments at the Planning Board and they had finally had their public hearing in terms of revisions and changes which will incorporate a great many of those things. He said he thought the document was in final form and should be on its way. He said they are affirmatively recommending that the Council adopt it. He said that had slowed it down and he said they will probably be getting it at the next Council meeting for formal adoption.

In addition, Mayor Menna added, based upon the Fire Code and the Uniform Construction Code, the issues of year round outdoor dining and space heater use are already provided for in our existing ordinances. He said the applications can be submitted right away as long as they meet the fire code standards in terms of the type of heating apparatus being used. He said they are ready, willing and able to entertain those types of applications and the other applications are being reviewed by the Planning Board, they've had their public hearing and there is going to be a favorable recommendation regarding changes to those ordinances.

Councilman DuPont said it was his understanding from discussions with the Mayor and the Borough Engineer that the incinerator was going to come down this year and asked if it was still on target. Mayor Menna said yes, it was. He added that there had been a final review letter and members of the Council should have, or will shortly be receiving that letter.

Councilman Zipprich he had been talking to a number of merchants around town and had stopped in at Bellini Shoes on White Street. He said the owner was preparing to close her store but has decided to stay open, reorganize and change her inventory which he thought was a good indicator for Red Bank. He said he also wanted to dispel one rumor that had been going around that Restoration Hardware was going to be closing, noting that it was not true.

Councilman Zipprich reported that he had been working with Councilwoman Lewis and Councilman DuPont and Mr. Mason on the budget and said he wanted to thank them all for their tireless efforts on what he hopes will be a well received budget.

APPROVAL OF MINUTES – February 23, 2009

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

ROLL CALL:

AYES: Zipprich, DuPont, Horgan, Lee and Murphy

NAYS: None

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

REPORTS OF MAYOR AND COUNCIL MEMBERS

Councilwoman Lee said she wanted to thank Mr. Watson noting that we had had a snow event and we came in fairly good on the budget. She said there was a concern about on street parking and they are going to do what they can to remedy that because that causes them to have to come back to do additional plowing and leads to overtime costs being incurred. She said everyone was out and working and it was amazing to watch them get the Borough streets so clean. She warned those that left their cars on the street, that there would be changes.

Councilwoman Horgan noted that Friday is the deadline for the RFP on the website and she is hoping that by the next council meeting there will be something to report. She said the Environmental Commission is working with the Borough Administrator on an Energy Audit. She also noted that the Human Relations Committee will be submitting its annual report for 2008 to the Mayor and noted that some of the things they are trying to do is to establish better communication with the Monmouth County Human Relations Committee and are also seeking better ways to represent our large Hispanic community. She said the Rent Leveling Board is still meeting to hear the application from Les Gertrude Apartments for their capital improvement project where they installed two new elevators. She said the Board had decided that it was a capital improvement, but the question now was, is a surcharge allowed and how much should it be or who should have to pay since there are rent controlled apartments and decontrolled apartments. She added that for those tenants in decontrolled apartments who are paying fair market value, some moved in before the project, some moved in during and some after, so there is also that question. She said they will be meeting at the end of the month and, hopefully, this will be resolved.

Councilman Zipprich reported that the Historic Preservation Commission's Historic Element to the Master Plan had been filed with the County. He added that he had spoken with the Engineer and the historic district will be added to the map and the ordinances will be modified accordingly. He said he also wanted to report that Mr. Sickels had met with a representative of the Monmouth County Board of Health in an effort to save money. He noted that the Monmouth County Regional Health Commission and Visiting Nurse contracts will be terminated upon an appropriate notice and we'll be able to save roughly \$80,000 by turning our services over to the Monmouth County Board of Health. He said in regard to the Construction Office, the State has asked for a fee schedule review with the Uniform Construction Code and the Construction Official is reviewing that and will recommend changes in accordance with the New Jersey Administrative Code as they pertain to the State permit surcharge fees. He noted that our fees haven't been modified since 2005.

Mayor Menna said he thought, based on Mr. Sickels meeting with the County as well as the review of the proposal, that they were going to need a resolution if not tonight then certainly at the next Council meeting to authorize a termination of the contractual relationship between the Regional Board of Health and also the VNA and also to authorize him to execute a perspective agreement with the County. He noted that by this simple step, we would be saving over \$75,000.

Councilman DuPont asked if the Mayor would like to make that resolution tonight. Mayor Menna said he thought they could do it from the floor. Attorney Pringle confirmed that they could. Mayor Menna clarified that it would be a resolution authorizing a termination of the health service contract with the Regional Board of health and the VNA for nursing services and to negotiate and execute a new contract with the County of Monmouth.

Administrator Sickels noted that the Borough's contract with the Regional Health Commission requires six month notice so the termination would be effective September 30th and the new contract would begin October 1st. Mayor Menna said the earlier we get started, the earlier we give the notice. He said it was his personal opinion that they would see more and more of these agreements with the County to bring us more into a vision of the 20th century than dealing with 19th century political mechanisms. He said he also thinks we have a very supportive Board of Chosen Freeholders who are looking to do a lot more stuff with municipalities.

Councilman Murphy commended the work of the public works employees some of whom worked for two or three days straight. He noted that it snowed for 24 hours and they were out there diligently for two days and they had to go back and re-shovel some of the sidewalks and redo some of the streets and they did a great job. He thanked Mr. Watson for taking care of his requests. He noted that the Police Department was also out and some of the guys came in on overtime. He said 74 summonses were issued for parking on the street during the snow storm. He thanked the Chief for being there for 48 hours and bringing in the extra guys that were needed to move the vehicles including getting emergency vehicles under cover in case they needed them.

Mayor Menna noted that the Executive Director of RiverCenter was here and wanted to note, notwithstanding the challenging times, it had been his great pleasure to open three new stores over the past month and another one this week. He said there were some exciting new possibilities on the horizon including a privately proposed parking garage for the Galleria that is coming before the Planning Board as well as an exciting new retailer whose name he couldn't mention. Most importantly, he said, he wanted to thank RiverCenter, in cooperation with New Jersey Transit, on a very exciting promotional campaign called One Red Bank. He said it would be in most of the stations along the North Jersey Coastline and in New York City.

Attorney Pringle excused himself from the table during the discussion.

The promotional campaign, Mayor Menna continued, promoted Red Bank as one community. He said it was a really simple campaign and he said he wanted to thank RiverCenter Director Adams as well as her creative staff in coming up with a logo that says something to the effect that there are 125 retailers, there are another 85 restaurants, 25 or so live entertainment places, there are two live world class theaters, one arts movie theater and there are wonderful venues throughout the whole town including a great river, but there's only one Red Bank. He said it really fosters a sense of community and he was grateful that the other line stops along New Jersey Transit would be promoting Red Bank very actively.

Attorney Pringle returned to the table.

MAYORAL APPOINTMENTS

Mayor Menna appointed Robert Evans and Gary Watson as Borough Representatives to the Fireworks-on-the-Navesink Committee. He said he thought their presence was going to be important in terms of providing input both from a technical standpoint as well as a recreational standpoint.

Mayor Menna said he was also happy to report that the second annual Red Bank Day would be on Saturday, May 16 and that it is going to be a cooperative effort with Borough Departments. He noted it would be at Count Basie Field with food for residents and guests and will feature and highlight our most important talent which are our schools. He said we are very grateful to Foodtown for underwriting a substantial part of the event as well as the Eisner Foundation. He said we are looking forward to doing that as a community event. He noted that last year the event included a parade but that there will be no parade this year, just entertainment at the field and it would be a wonderful afternoon.

Mayor Menna appointed the following citizen members to the Advisory Committee for the State Plan Endorsement Process: Councilwoman Sharon Lee, Daniel Mancuso as Chairman, Vincent Light as Vice Chairman, Gilda Rogers, David Cassidy, Marlee Napurano, William Brooks, Charles Watson, Maura Gilligan and Donna Smith-Barr as liaison and ex officio member.

COMMUNICATIONS AND PETITIONS

Mayor Menna read a request from the Jersey Shore Thunder for use of Count Basie Park for its annual "Beach Blast" youth baseball tournament on May 23-25, 2009 and July 3-5, 2009 from 8 a.m. to 9 p.m., pending approval of the Special Events Committee.

Mayor Menna asked the Council if they wanted to move these items separately. He explained that he had no problem with the May 23-25 request, subject to the organizers paying for their own police protection. Councilman Murphy said, as the representative to the Special Events Committee, they will make sure that happens. Administrator Sickels noted that this was the fourth or fifth year that the Borough has had these events and that they have been on the 4th of July weekend in the past. Mayor Menna said his concern was that, since they are charging a substantial participation fee that they pay for their security. Councilwoman Lee said she thought the fee was \$525 per team. Councilman DuPont asked if they had paid for security in the past. Mayor Menna said they had not. Councilman DuPont asked if there had been a problem with security. Mayor Menna said the Special Events Committee recommends that there be a security presence. Councilman Murphy said he wasn't sure that it had been to Special Events. Councilman DuPont suggested sending it to the Special Events Committee so they could make a recommendation. Administrator Sickels noted that the normal procedure is that the Mayor and Council approve the event subject to Special Events approval and if the Police Department wants security we will make the organizer provide it. Mayor Menna said his concern was that it never comes back to the Council and they don't know what happens with it. Administrator Sickels said that is because they haven't had any problems because the committee works them out and if the Police Chief wants security, the committee will make them provide security.

Councilman Murphy noted that Police Chief Fitzgerald was in attendance and asked him to come forward. He asked Chief Fitzgerald if there had been any problems at this event in the past few years. Chief Fitzgerald said the only problems they have had are in regard to parking because it is limited and he recommended an officer

to help with that situation. Administrator Sickels said Lt. McConnell would report that at the meeting. Councilman Murphy said, as per the Mayor's request, it would be brought up at the meeting and they would have one officer available during the event. Mayor Menna asked Chief Fitzgerald about the fact that the event was scheduled on July 3 which is the same day as the Kaboom Fireworks. He asked how we could provide assistance if there is a problem there on July 3. Councilman Murphy noted that the Police Department has their hands full on July 3. The Mayor said he didn't think it was a good idea. Administrator Sickels said he wanted to point out that this was the fifth year they have had this event on that holiday and they haven't had problems in the past. He also noted they would be out of the park by 6pm. Councilman Murphy said the problem is, if we do have a problem over there, we have all of our Police Department in town working. He added that most of them over at the fireworks and officers from several other towns are also present. He said he understood Chief Fitzgerald's concerns.

Councilman DuPont asked Mayor Menna if he wanted to table the request. Mayor Menna said he thought they should split the request in half. He said he didn't see a problem with the request for May 23-25 as long as they paid for police protection but thought they should give the July dates some more consideration.

Councilman DuPont offered a motion to approve the request for the dates of May 23-25, seconded by Councilwoman Horgan.

ROLL CALL:

AYES: Zipprich, DuPont, Horgan, Lee, Murphy

NAYS: None

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

Mayor Menna asked if there was a motion to study further the request for the event to be held on July 3-5.

Councilwoman Lee offered a motion to table the request pending further information. Councilman Murphy said he would second on clarification that there will be provided security. He asked that it be brought to the attention of the Special Events Committee that the Council will be requiring security of one officer for the May 23-25 and that the Police Department will review the request to hold the event on July 3-5. .

ROLL CALL:

AYES: Zipprich, DuPont, Horgan, Lee, Murphy

NAYS: None

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

Mayor Menna read a request from Stokaboka Surf & Skate to hold "Beach Chair Surf Movie Night" in the back parking lot of 32 Monmouth Street on May 30th, June 27th, July 25th and August 29th, 2009 at 8:00 p.m. and on September 26th, 2009 at 6:30 p.m., approved by RiverCenter and pending approval of the Special Events Committee.

Councilman DuPont 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 request was declared approved.

Mayor Menna read a request from The Leukemia & Lymphoma Society to hold the 2009 Walk, Light the Night, on Saturday, September 26, 2009 from 7:00 p.m. to 10:00 p.m., pending approval of the Special Events Committee.

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

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 asked if anyone would like to speak regarding resolutions on the agenda or ordinances on the agenda for first reading, no one appearing he closed the public comment portion.

Councilman DuPont offered a motion to close the public comment portion, seconded by Councilman Murphy.

ORDINANCES – First Reading

ORDINANCES – Public Hearing & Final Adoption

2009-3 Mayor Menna read “AN ORDINANCE OF THE BOROUGH OF RED BANK, COUNTY OF MONMOUTH, NEW JERSEY AUTHORIZING THE CONVEYANCE OF RIGHT OF WAY TO THE BOROUGH UPON CERTAIN PORTIONS OF THE PROPERTY KNOWN AS 55 FISHER PLACE, BLOCK 13, LOTS 20.17 AND 20.18 FROM PATRICK MCGEEHAN AND KERRI LYNN MCGEEHAN.”

Mayor Menna opened the public hearing and asked if anyone would like to speak, no one appearing he closed the public hearing.

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.

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

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.

2009-6 Mayor Menna read “AN ORDINANCE OF THE BOROUGH OF RED BANK, COUNTY OF MONMOUTH, NEW JERSEY AMENDING AND SUPPLEMENTING CHAPTER II, SECTION 50, ENVIRONMENTAL COMMISSION, AMENDING SECTIONS 2-50.1 AND 2-50.2 TO PROVIDE FOR THE APPOINTMENT OF TWO ALTERNATE COMMISSIONERS.”

Mayor Menna opened the public hearing and asked if anyone would like to speak, no one appearing he closed the public hearing.

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

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.

2009-7 Mayor Menna read “AN ORDINANCE OF THE BOROUGH OF RED BANK, COUNTY OF MONMOUTH, NEW JERSEY AMENDING AND SUPPLEMENTING CHAPTER XIII, “PROPERTY MAINTENANCE,” SECTION 13-7.6, “DEFERRED PROSECUTION AGREEMENTS.”

Mayor Menna explained that this ordinance sets forth a methodology where landlords would be permitted to “clean up their act” before summonses are issued. He noted that there has been a great deal of debate in terms of people have wanted to know who the individuals were that paid the ten largest fines over the year 2008 concerning over crowding of properties and said they are: Iris Acevedo at \$32,624, Gerald Marks at \$9,702, Iris Acevedo at \$6,312, Martin Ortner at \$4,312, Suncrest LLC at \$4,312, Peter McCue at \$4,312, A. Vaccarelli at \$4,312, Mary Tresier at \$4,078, Esvin & Ana Garcia-Barrios at \$3,773 and Eiming Wong at \$3,773. In addition, he continued, he said he also had the list of repeat offenders for overcrowding in 2008 and said they are Arbor Real Estate, Christian Giamanco, Iris Acevedo, Martin Ortner, Robert MacGregor and Victor Giamanco.

Councilman DuPont said he was concerned that deferred prosecution would give the landlords a bite of the apple while the tenants have to live in the situation. Mayor Menna said if the situations were life threatening or health and safety situations, the Borough would move in any event. He noted that if they did move, under existing law, they would have to assess the relocation costs to the landlord but would have to front them immediately. He said that hasn’t been a problem that they have been faced with in the past couple of years.

Administrator Sickels noted that it doesn’t apply to unsafe structure conditions, fire safety or health conditions.

Councilman DuPont asked for clarification if tickets could be issued immediately upon those situations. Mayor Menna said if it was for those reasons, then yes. Councilman DuPont asked if the deferred prosecution was just for maintenance issues. Mayor Menna said it was for housing code, maintenance and overcrowding as long as it doesn’t affect those issues. Councilman DuPont asked if the ordinance gave them a certain amount of time to prepare. Attorney Hall said it was ten days. Administrator Sickels clarified that this was all contingent upon the landlord doing due diligence with regard to making sure all the terms and conditions of complying with the ordinance are in the lease in both English and Spanish, that they inform their tenants in writing that they can’t overcrowd, what the maximum occupancy is, that a placard is posted in the dwelling unit and that the landlord demonstrates through records of inspections that he or she has gone to the property to ensure compliance with the ordinance. He said if they do all of those things then they should be eligible, should the Borough find a property maintenance or procedural violation, to a deferred prosecution which gives them 10 days. If they haven’t done all of those things, he continued, then they aren’t eligible for deferred prosecution.

Councilman DuPont said it just seems that our Code Enforcement Department has done a wonderful job in eliminating overcrowding and he would hate to see this deferred prosecution agreement be used as a delay tactic by landlords at the cost of tenants’ quality of life. Attorney Hall noted that if they don’t prepare within the 10 days, that is a new violation in itself. He said the idea is to let them alleviate the bad conditions and fix them up so the tenants can live in a safe and decent place and if they don’t do it, they go back on their word and that’s an additional violation. Councilman DuPont pointed out that it wasn’t just tenants, but neighbors that live next to these overcrowded places and asked what recourse a neighbor has. Mayor Menna said, from a practical standpoint, even if you issue the summons right away, you aren’t going to get to Municipal Court in 10 days. Councilman DuPont agreed but said he didn’t want the message to go out to landlords that this is just buying extra time but acknowledged that that doesn’t seem to be the case. Mayor Menna said that wasn’t the intent and noted that they have seen some of fines he just reviewed, noting that some are repeat offenders and some aren’t. He said he thinks its important to get the message out that we will be enforcing the summonses but there are, in fact, certain circumstances where some legitimate landlords, perhaps through inadvertence or not having complete control of their properties, have had overcrowding situations that may not necessarily been created by them. He said this brings the overcrowding situation to the landlords attention and gives them a chance to clean up their act. If they clean up their act within 10 days, he continued, then the landlord may, in fact, not be responsible. Administrator Sickels noted that most of the time, where there is an overcrowding situation, it comes under a Fire Code or Construction Code violation which is an eminent hazard. He said it is addressed immediately and there is no deferred prosecution.

Councilman Murphy asked if he was to understand that the tenant gets to stay there for the 10 days while the repairs are being made and he is not evicted. Administrator Sickels said that was the case as long as there were no unsafe conditions. He said there have been instances where the tenants have children and the violation to the CO was because they had had a baby. He said they have to use some judgment in those circumstances but that dangerous situations are addressed usually under Fire Code or Construction Code and are exempt from the deferred prosecution.

Mayor Menna opened the public hearing and asked if anyone would like to speak, no one appearing he closed the public hearing.

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.

Councilwoman Horgan offered a motion to adopt the ordinance on final reading, 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 adopted on final reading.

Councilman Murphy said that he just wanted to say that over the last three or four years since the Police and Building departments have been working on the overcrowding problem, they have been very active with it and have cleaned up a lot. He said they are absolutely right when they said the ordinance will give the opportunity to correct problems over 10 days but when you compare the situation now to four years ago, considering how many rentals we have in Red Bank, the Borough has done a fine job. He credited the Police Department and Code Enforcement Officers with bringing down the incidents. He said he thought this was a good ordinance and he thought it would work. He added that it would relieve us of the questionable situations like Mr. Sickels mentioned where the apartment is made for three people and they have a baby making four. He said he thinks its time to put something like this in effect since the message is out there that we are addressing overcrowding.

Mayor Menna said he thinks it tells the legitimate landlords that are trying to comply that we are willing to work with them to try to clean up some of our neighborhoods to effectuate a better quality of life for all of our citizens. He added that he thinks it's a step forward and that we will see a positive reaction from landlords who, once a situation is brought to their attention, they will immediately act on it.

2009-8 Mayor Menna read "AN ORDINANCE OF THE BOROUGH OF RED BANK, COUNTY OF MONMOUTH, NEW JERSEY AMENDING AND SUPPLEMENTING CHAPTER XVIII, SECTION 9, "PARKS AND RECREATION," AMENDING SECTION 18-9.3 TO REPEAL THE PROHIBITION AGAINST PUBLIC INTOXICATION WITHIN BOROUGH PARKS."

Mayor Menna said the reason they are enacting this ordinance is because the Attorney General's Office and our insurance carrier have indicated that it is a State law and when there is a State statute that is on point, you may not have a local ordinance for prosecution purposes. He said they are deleting it and all violations will be charged by the State statute.

Mayor Menna opened the public hearing and asked if anyone would like to speak, no one appearing he closed the public hearing.

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.

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

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.

2009-9 Mayor Menna read "A BOND ORDINANCE AMENDING AND SUPPLEMENTING BOND ORDINANCE NUMBER 2005-39 FINALLY ADOPTED BY THE BOROUGH COUNCIL ON OCTOBER 10, 2005 ENTITLED, "BOND ORDINANCE PROVIDING FOR VARIOUS IMPROVEMENTS AND RENOVATIONS TO MARINE PARK WITHIN THE BOROUGH OF RED BANK, IN THE COUNTY OF MONMOUTH, STATE OF NEW JERSEY (THE "BOROUGH"); APPROPRIATING \$2,826,100 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$1,525,000 BONDS OR NOTES OF THE BOROUGH TO FINANCE PART OF THE COST THEREOF," TO INCREASE THE APPROPRIATION THEREIN BY \$1,174,550 AND TO INCREASE THE AUTHORIZATION OF BONDS OR NOTES THEREIN BY \$260,000 TO FINANCE PART OF THE ADDITIONAL COST THEREOF."

Mayor Menna opened the public hearing and asked if anyone would like to speak, no one appearing he closed the public hearing.

Councilwoman Lee 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.

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

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

09-80 Mayor Menna read "A RESOLUTION AUTHORIZING CONTRACTS WITH CERTAIN APPROVED STATE CONTRACT VENDORS FOR CONTRACTING UNITS PURSUANT TO N.J.S.A. 40A:11-12a."

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

Councilman DuPont clarified that this was for a police vehicle. Mayor Menna said it was and it had a 10 year life span. Councilman DuPont asked the Police Chief why we couldn't get a hybrid vehicle since Red Bank has been taking steps to be green. Councilwoman Horgan said that was her question too. Councilman Murphy said the only town that has brought in a hybrid is Fair Haven and it was only one vehicle that they are testing out. He said that the hybrids run on batteries and to charge it, the vehicle would have to be going at a certain speed for a certain amount of time. He added that they are watching Fair Haven and the Police Chief has gone over and looked at it. He also noted that the life expectancy of the batteries is eight years and the life of this car is 10. He said they are worried about the fact that the batteries are very costly to replace. He said the kinks are being worked out and noted that this vehicle will be replacing an Expedition which is a big vehicle. He added that the new vehicle is a six cylinder with front wheel drive and the gas mileage will be almost half of what the Expedition got. He also noted that they have increased the members of the police force to 42 but are keeping the same amount of vehicles. He said the vehicles are replaced every 10 years as a matter of policy. He said this will replace the Chief's vehicle and his will go to the Detectives. He added that the Detectives vehicle will go to the Patrol Unit.

Councilman DuPont said he would love to see the Chief driving a hybrid. Councilman Murphy said he would too, but they want the right one. He added that in a few years he thinks it is a very good possibility.

Councilman DuPont asked the Chief if there was any possibility of getting a hybrid instead of this one or was what Councilman Murphy said accurate. Chief Fitzgerald said at this time with the technology available, he is concerned about the length of the life of the battery packs. He noted that the vehicle they are getting rid of has been in service for 12 years. Councilman DuPont asked the Chief if he didn't anticipate a hybrid lasting for that long. Chief Fitzgerald said it wasn't the hybrid he was concerned about but the batteries. Councilman Zipprich noted that his vehicle batteries were six years old and still holding a charge.

Councilwoman Lee suggested they consider some alternate fuels rather than a hybrid and suggested propane as an option. Councilman Zipprich said he thought, as technology changes, we will see the automotive industry change the way cars are fueled but he didn't think at this point in time it was a viable alternative.

ROLL CALL:

AYES: Zipprich, DuPont, Horgan, Lee, Murphy

NAYS: None

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

09-81 Mayor Menna read "A RESOLUTION SUPPORTING A-3753, MODIFYING THE MUNICIPAL LIBRARY FUNDING FORMULA REQUIRED BY STATE LAW."

Mayor Menna said this would suggest to the legislature that they should reduce the percentage appropriation of library funding based on the assessment values of today.

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

Councilwoman Lee said it was her concern that in these current times we have more and more people using the library. She added that she realized that the formula was based on assessments and it has not been reevaluated in some period of time. She said she feels we should be putting more money into our libraries instead of negotiating to bring them down and with that said she would be voting against this.

Councilwoman Horgan said she was in favor of it, but asked where they would get the other money from. Mayor Menna said, according to the statistical study done by the State Budget Office, based on the increase in the funding formula over the last 25 years, most libraries have accumulated a substantial amount of surplus. Councilwoman Horgan asked if ours has. Mayor Menna said he believed it had a surplus, but the extent of the surplus he did not know. He noted that we have not taken from that surplus and municipalities are eligible to draw down upon that surplus if it reaches a certain level.

Councilman DuPont said he thinks it's difficult in these times when people are using the library more often and it may be a necessity for many.

ROLL CALL:

AYES: Zipprich, Horgan, Murphy

NAYS: DuPont, Lee

There being three ayes and two nays, the resolution was declared approved.

09-82 Mayor Menna read "A RESOLUTION AUTHORIZING THE PUBLIC DISPLAY OF FIREWORKS."

Councilwoman Horgan 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.

09-83 Mayor Menna read "A RESOLUTION AWARDED A CONTRACT TO A.C. SCHULTES, INC. RELATED TO THE CHESTNUT STREET WELL REHABILITATION PROJECT."

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

Councilman DuPont asked for more information on this. Administrator Sickels said this has to do with a well that was dug a couple of years back. He said the screens have developed blockages from the iron deposits and it needs to be redeveloped which is a quite involved process. He said they prepared bid specs and put it out to bid twice. He noted that the sole bidder had been the contractor that sold the well. He said they rejected the first bid because it was over the engineer's estimate. They put it out to bid again, he continued, and sought out other vendors, but again received a sole bid which was above the engineer's estimate. According to the Statute, he explained, after you have bid it twice and rejected it, you have the right to negotiate the contract. He said it seems the provider's concern was that they couldn't give a definitive time or cost because we had specified a certain number of days to do this work they were concerned about what would happen if it takes longer. He said they were budgeting to work within that short time frame. He said they negotiated a per diem rate in order to bring the initial base contract down within the engineer's estimate and within the money allotted.

Councilman DuPont asked for confirmation for Engineer Ballard and she confirmed that was the case.

Councilwoman Horgan said she was concerned that if they had twelve extra days they might feel they could charge us for it and asked how that could be prevented. Councilwoman Lee said our engineers would be on site.

Engineer Ballard said they have established a base of 12 days and when they get close to that they have to get approval by the owner or the engineer to go any further. She added that in the negotiation process they gave us a per diem rate and we also set a 10 day cap on that rate.

Councilman Murphy noted that we have done work with Schultes before and, when there have been typical problems on the job, Schultes has worked it out and done the right thing.

ROLL CALL:

AYES: Zipprich, DuPont, Horgan, Lee

NAYS: None

ABSTAIN: Murphy

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

Mayor Menna said there were [two more resolutions](#).

09-84 Mayor Menna read “A RESOLUTION REQUESTING THE BOARD OF HEALTH OF THE BOROUGH OF RED BANK TO ADOPT A RESOLUTION OF NOTICE OF CANCELLATION OF THE BOROUGH’S CONTRACT WITH THE MONMOUTH COUNTY REGIONAL HEALTH COMMISSION NO. 1.”

Councilman DuPont 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.

09-85 Mayor Menna read “A RESOLUTION REQUESTING THE BOARD OF HEALTH OF THE BOROUGH OF RED BANK TO ADOPT A RESOLUTION CONSENTING TO THE PROVISION OF PUBLIC HEALTH SERVICES BY THE MONMOUTH COUNTY DEPARTMENT OF HEALTH..”

Councilman DuPont 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.

PROCLAMATIONS

PAYMENT OF VOUCHERS

09-86 Mayor Menna read “A RESOLUTION FOR PAYMENT OF BILLS AMOUNTING TO \$2,674,608.94.”

Councilwoman Lee 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

NEW BUSINESS

AUDIENCE

Gary Laermer—Chairman and CEO of the YMCA—said he had received emails that were critical of the fact that they had not come before the Council to give an annual report regarding resident participation in the Y’s programs. He said he had sent the information and apologized for not sending it before. He said the number of residents that had participated in the past year was 450 school aged kids at the Maple Avenue center, 120 seniors and 110 teenagers, about 50 each day at the Primary and Middle School, about 30 each day at the preschool program. He said he wanted to share this information and will do so on an annual basis. He also noted that there are about 330 households from Red Bank that have a full membership at the Maple Avenue center.

Mayor Menna asked how many people from Red Bank they employ. Mr. Laermer said they have a total of 18 full time employees and 220 part time employees and about 15 percent are Red Bank residents. He said again he would be sure to report this information on an annual basis.

David Prown—44 Hillside Place—asked for information on the Community Day. Mayor Menna said it would be Saturday, May 16, at the Count Basie Field. He said it will be for the kids and entertainment will be provided by the schools. He also said that it will be underwritten by Foodtown as well as the Eisner

Foundation. He said it's going to be a great day and the only thing we had last year that we won't have this year is the parade.

Mr. Prown asked if there would be an organizing committee. Mayor Menna said the organization committee will be the person that should be running it and that's Bob Evans in Parks and Recreation and Pamela Borghi will be assisting also. Mr. Prown noted that there are so many great volunteer organizations in town that had set up tables before. Mayor Menna said charitable organizations and community organizations were welcome. Councilwoman Horgan noted that our municipal committees participate also.

Mr. Prown noted that at the last meeting there had been discussion of the Community Center and he thought the Council asked good questions and he thought there was good understanding all the way across the dais about the issues at hand. He acknowledged that the Council sees a lot of things that the public doesn't see. He said he thought there was a good understanding of the needs in town with some good questions and concerns that were brought up. He said he wanted to share a quote from Mother Teresa who said "Don't let great get in the way of good." He said that applies here because there is no perfect solution for this Community Center. There are lots of issues, he continued, and there's not a perfect answer for a Community Center in this town but there are some good answers and some good ideas that we can partake with maybe as early as the next meeting.

Ben Forrest—16 Locust Avenue—noted that he had some things about his own, his wife's and his children's experience with the YMCA. He said he does have some concerns and it is his thought that the YMCA could do better in Red Bank.

Rev. Eunice Washington—11 Carmen Place—said she was coming before them about the Boys and Girls Club being housed in the Count Basie Learning Center and wanted to know if the Council had talked about it. Mayor Menna said they had had some individual discussions and they are reaching a consensus. He said it wasn't ready this evening, but hopefully by the next Council meeting they will authorize their attorney in conjunction with some discussions they are having so they are moving ahead with it. Rev. Washington said she was happy to hear that and she looks forward to the next meeting. Mayor Menna noted, as Mr. Prown had said, there is no perfect answer, but they are working on it. Rev. Washington said there has to be something for the young people and that violence is an issue. She said she thought having the Boys and Girls Club will eliminate it for future generations to come.

Frank Valentino—119 River Street—asked when the Council would have the next budget conference meeting like the one at the Count Basie at the beginning of the year. Mayor Menna said he didn't mean to speak for Councilman DuPont, but he thought that as soon as they introduce the budget they will have budget hearings that the public will be able to attend, most likely in the Council Chambers.

Steve Fitzpatrick—92 Hudson Avenue—noted that he had received in the mail on Saturday a response to his OPRA request from Mr. Hall. He said he believes Mr. Sickels and Mayor Menna got copies also. Mayor Menna noted that he had only received a copy of the letter, no attachments. Mr. Fitzpatrick said he appreciated Mr. Hall's cooperation in the matter and said he was very timely in responding. He noted that the last paragraph of the letter refers to the attorney brief that he had requested and asked if Mr. Hall would stipulate to the fact that a brief exists. Mr. Hall said there has been a lot of conversation about briefs that he has written or memos he has written and he would not sit here and be cross examined like it was a deposition. Suffice to say, he added, that any briefs he's written to the Mayor and Council as a lawyer are going to be privileged.

Mr. Fitzpatrick said he understood his position on that. He said his request would be to the Mayor and Borough Administrator, noting that there would be follow up requests regarding some of the documents that are going to be excluded from the review. He added that there are at least 64 documents that are either excluded or redacted at some point. He said he was asking, if there was a brief addressed to all of the Council members, that in his follow up requests it be stipulated on record as to when it was prepared and when it was given to the Council members.

Mayor Menna asked Mr. Fitzpatrick to clarify that he was not looking for the actual document but when it was prepared. Mr. Fitzpatrick said, of course, he's looking for the actual document. Attorney Pringle noted that any document that is not provided to him will be described in a way that he will understand what document has not been provided to him. Mr. Fitzpatrick said it was good that he said that because the brief that he is speaking to specifically... Mr. Pringle interrupted to clarify that briefs are filed with the court which he said he wanted to make clear. Mr. Hall told Mr. Fitzpatrick he was probably referring to a memo. Mr. Fitzpatrick said he wanted to make clear that there was a large preparation of memorandum which involved many pages and that was forwarded to the Council members at the time. He estimated the date of the document as some time last year, in early spring of '08. He said all he was requesting was that the document be identified as such. Attorney Pringle said any documents provided to Mr. Fitzpatrick that are generally responsive to his request will be described along with the reasons why it wasn't provided.

Mr. Fitzpatrick said Mr. Hall had indicated that for review of the documents that are available for inspection that he could work with Mr. Sickel's office. He asked Administrator Sickels how that process would work. He asked if he would set up an appointment and asked if the review would be conducted in Borough Hall. Mr. Sickels said yes. Mr. Fitzpatrick asked if there would be any other people involved in the process. Mr. Sickels said normally they have someone there to help him with copying and also to supervise the documents to make sure they don't go out the door. Mayor Menna noted that the attorney would not be present.

Mr. Fitzpatrick said if it was going to be a lot to go through, he just wanted to understand the process. Mr. Sickels said they would give him a location, a table and the four boxes. Upon the completion of his review, Mr. Fitzpatrick said, he will obviously be making more requests for information. He said, in summing up, that going forward he hopes the Mayor and Governing Body would be more forthcoming with some of these documents so that we don't end up in another position where there is some protracted litigation based on just trying to seek these public documents.

Jim Willis—Harrison Avenue—asked about some storage containers and a truck that have been on Harrison Avenue for several months now and noted that they are across from the park. He speculated that they were from the water main people. He asked in the Council had any idea when they would be moved. Councilman DuPont noted that Mr. Willis had said they had been there for months. Mr. Willis said it had been four or five months. Councilman DuPont acknowledged that that had been a long time. Mr. Sickels noted that work had been suspended. Councilwoman Lee said she thought they were waiting for blacktop to be available and that the factories will open in March. Mr. Sickels noted that both Mr. Watson and the engineers were in the room and said that the Borough will contact the contractors to see what their intention is, when they are going to commence work and if the equipment is still needed for the work. He said if it is not, they can move it out.

Councilman Murphy said he believed it was paving contractors working on the end of Fisher Place and that is where their equipment was stored. Mr. Sickels confirmed that was why it was there and said the concern was not to put it in front of someone's house, but put it near the park where residents don't have to look at it right outside their door. He noted that you could still see it from across the street, but it was the least intrusive in that neighborhood. Mr. Willis said he would follow up with Mr. Watson.

EXECUTIVE SESSION

09-87 The Attorney read a resolution to adjourn to executive session to discuss personnel.

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

ROLL CALL:

AYES: Zipprich, DuPont, Horgan, Lee, Murphy

NAYS: None

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

Councilman DuPont offered a motion, seconded by Councilwoman Horgan to adjourn from executive session.

ROLL CALL:

AYES: Zipprich, DuPont, Horgan, Lee, Murphy

NAYS: None

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

ADJOURNMENT

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

ROLL CALL:

AYES: Zipprich, DuPont, Horgan, Lee, Murphy

NAYS: None

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

Respectfully submitted,

Pamela Borghi