

**MINUTES
REGULAR MEETING
MUNICIPAL COUNCIL – BOROUGH OF RED BANK
MAY 26, 2009
7:30 P.M.**

PLEDGE OF ALLEGIANCE

ROLL CALL

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

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

ABSENT: 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.

SUSPEND REGULAR ORDER OF BUSINESS

Councilman DuPont offered a motion to suspend the regular order of business, seconded by Councilwoman Horgan.

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 presentations on tonight's agenda and said it was appropriate to start off with one of the Borough's anchor institutions that has been so important, not just for the Borough of Red Bank but for this country as a whole. He said, this year, we are celebrating the 100th anniversary of the founding of the NAACP. He added that it has been our privilege to have an active, vital branch headed by wonderful men and women of great esteem in our community. He introduced the organization's current president, Rev. Henry P. Davis, and welcomed him to the meeting.

09-143 Mayor Menna read "A RESOLUTION HONORING & CONGRATULATING THE NAACP IN RECOGNITION OF THEIR 100TH ANNIVERSARY."

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.

Mayor Menna asked Rev. Davis and members of the NAACP Executive Board to come forward for the presentation of the resolution. Rev. Davis thanked the Mayor and Borough of Red Bank for the resolution and expressed his gratitude for the support of the Mayor and Council.

Mayor Menna noted that Councilwoman Horgan had brought the following resolution before the Council and invited her to read it. He noted that it honors Lois Bell, a resident of the west side of the Borough and an integral part of our community.

09-150 Councilwoman Horgan read "A RESOLUTION POSTHUMOUSLY HONORING LOIS CLAIRE BELL."

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.

Mayor Menna asked Ms. Bell's partner John Clancy to come forward for the presentation of the resolution. Mr. Clancy expressed his gratitude on behalf of himself and Ms. Bell's children. He said her participation was never a labor, but rather something she enjoyed.

Sustainable Jersey Presentation by Environmental Commission

Andres Simonsen, Chairman of the Environmental Commission, appeared before the Council to give a presentation on the Sustainable Jersey project. He introduced the members of the Commission that were in attendance and handed out a copy of their annual report to the Mayor and Council. He reviewed what the Sustainable Jersey program was about, the reasons why the Borough would want to participate and how they would go about obtaining the certification. He said there were three pillars of the program which were Environmental Issues, Economic Development and Social Equity. He noted that it was a point driven system to become certified and added that Red Bank already has many of the items in place. He noted that the items had to be elective, not mandated, items. He reviewed the organizations involved in the creation of the program and noted that there was a diverse group offering funding.

As an example of what sustainability means, he noted that under a formula for the amount of area required to sustain a population, Red Bank population would require an area approximately the size of Monmouth County. He noted that while the Borough already has organizations that fit the pillars such as Environmental Commission, Human Relations Committee and RiverCenter, there is little communication between them and the creation of a Green Team would tie them all together. He explained several the reasons why the Borough should participate including access to funding and technical resources, improving the Borough's brand image and to achieve the goals of the Mayor's climate protection agreement that was signed at the US Conference of Mayors last year.

Mr. Simonsen said in order to join, the Borough must pass two resolutions and noted that the first one, to support registration in the program, had already been done. He said the second resolution would establish a Green Team for Red Bank. He suggested that the members of the team be as inclusive as possible and recommended the various organizations that should be represented in order to represent the three pillars of sustainability. He said the Environmental Commission was recommended that the team be a sub committee of their organization. He said the other ways to do it would be to create a separate non-profit or a whole new committee. He proposed that he would initially serve as the Chair and from there leadership would move through a representative of each pillar of sustainability. He suggested they start with six meetings per year with homework in between. He noted the number of New Jersey municipalities that have already registered and added that none had been certified yet which showed that the program was in its infancy. He encouraged the Council to vote in favor of the resolution so that Red Bank could be added to that list.

Mayor Menna thanked Mr. Simonsen for his presentation and asked if anyone on the Council had any questions. Councilwoman Lee asked where they could see the listing of point values for different projects. Mr. Simonsen said it was on the webpage and he would forward the link to Councilwoman Horgan.

Councilman DuPont noted that he and Councilwoman Horgan had written a "green letter" a year ago which incorporated this and noted that the Environmental Commission had been instrumental in helping to implement their ideas. He said that earlier in the day, they had had a meeting regarding solar panels and added that they may be able to coop with the Board of Education on that project. He asked if they are able to coordinate the project, would it bring the Borough additional points. Mr. Simonsen said it absolutely would and suggested there may be help available for the project through this program. Councilman DuPont said he understood there was Federal money available that they are looking into. He also noted the efforts that had been going on in Atlantic Highlands regarding this area and questioned the time frame of the program since they are still working on it. Mr. Simonsen noted that the program requires 100 points for certification and the Borough already has 60 or 70 as they begin. He noted that the State Sustainability Institute will offer a presentation and an awards ceremony at the League of Municipalities convention in November and that it will be ongoing. Councilman DuPont asked if Red

Bank would be able to get points for the mandatory plastic bag recycling program that will begin July 1. Mr. Simonsen said he didn't have the point list in front of him, but he thought we could fit it in. Councilman DuPont also noted that the Borough is taking down the old incinerator to create jobs and protect the environment and hoped that would also contribute to the points earned.

Councilman Murphy asked what obtaining the 100 points would mean for the Borough. Mr. Simonsen said it was partly a brand image for Red Bank to be known as a sustainable place but it would also give the town priority for some grants. He noted that there is also technical expertise and free training available for projects such as the solar panels. Councilman Murphy asked what type of grants were available and asked if the Borough might have been eligible for a solar panel grant if they were farther along in the process. Mr. Simonsen noted that they had just missed a grant that was offered in \$10,000 and \$25,000 allotments. He added that fifteen were available and about 100 municipalities applied for it. Councilman Murphy asked what the grant money could be used for. Mr. Simonsen said it would have to be for something above and beyond what the Borough is required to do and that it would not be available for things that are mandated. He gave the solar panel as an example of an eligible project.

Mayor Menna said Mr. Simonsen's presentation was very well done and noted that Red Bank had been moving in this direction for the past three years. He thanked Councilman DuPont for shepherding the Borough in the right direction. He suggested they move forward at the next Council meeting with a formal authorization for the creation of the Sustainability Committee and the appointment of individuals to that Committee so work can begin as quickly as possible. He told Mr. Simonsen that whatever cooperation was needed from the Borough, he would have it. Mr. Simonsen noted that they had already done a press release on this issue. Councilman Murphy said he would like the Borough Attorney to review the proposed resolution.

Community Development Block Grant Public Hearing

Mayor Menna noted that the Community Development Block Grant Public Hearing is an annual event and asked Coordinator John Gurzo and Engineer Ballard to review the project for the public. Mr. Gurzo thanked the Mayor and Council and introduced himself to the audience. He noted that the Borough is eligible every two years to apply for the Community Development Block Grant. He asked Engineer Ballard to describe the application for the Cedar Crossing Affordable Housing project. Engineer Ballard reviewed the history of the project noting that the Borough had received funding through the Department of Community Affairs to help purchase property at the end of Cedar, River and Catherine streets. She said the project would consist of 36 affordable housing units—18 two bedroom and 18 three bedroom. She noted that the project had been approved by the Zoning Board last January. She said the project required several off-site improvements to support the construction which was primarily for utilities on Cedar, River and Catherine streets. She noted that even a privately held project would have a hard time doing improvements to all of the utilities on three roadways and an affordable housing project has an even harder time. She said they are asking for the Mayor and Council to approve a plan to apply to the Monmouth County Planning Board for a Community Development Block Grant that would be for a maximum of \$250,000 and the funding would go to make the off site improvements. She noted that this would take some of the burden off of the Affordable Housing project and help the project move forward. She said that, overall, she thinks the project has been a community effort. She said the application would be for 2010 funding.

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

William Poku—Chairman of the Greater Red NAACP—noted that, in January, when the Zoning Board approved the project, they went on record saying that, for once, a developer has come forward that is not looking to line his pockets. He added that they all agree it is a great project. He said, since then, Governor Corzine has asked for a moratorium on returning RCA grants to developers and asked how that would affect this project. Mayor Menna said that it doesn't. He said whatever has happened at the State level will have no affect on Cedar Crossing because it is a Borough owned project through the Housing Authority. He added that it is one hundred percent Affordable Housing and is not a mixed community. He also noted that the land acquisition costs were given to the Borough by the State Department of Community Affairs and said the financing will also be through a State agency. Mr. Poku said he wanted to congratulate Red Bank for taking the position, which is different from the League of Municipalities, in support of Affordable Housing and hoped that they would continue to make affordability key in this town.

Councilman DuPont offered a motion to close the public hearing, seconded by Councilwoman Horgan.

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 asked if any Council members had any questions about the application.

Councilman Zipprich asked if the funding would come in the form of grant money or would it be a combination of monies. Mr. Gurzo said it would be a grant adding that they were Federal HUD funds that were funneled through the County.

Council DuPont asked if they could anticipate a shovel to the ground for this project this year. Engineer Ballard noted that the utility improvements were what the application would be for but that the goal was to begin the residential portion of the project this year. Mayor Menna added that it was his understanding that it would begin sometime in the fall. Mr. Gurzo noted that voting on this application would take place in August and there was no guarantee of approval. He added that even if approved, there was no guarantee that it would be at the full amount requested. He said if approved, the project could possibly start in September.

Mayor Menna said he thought this was an opportunity for the County, through the Block Grant program, to really put its collective wisdom into effect because of all of the things they can put their money into, this is one hundred percent Affordable Housing, not mixed with people that have more money but completely affordable. He said any letters of support to the Freeholders would be appreciated.

Administrator Sickels said he believed projects in support of Affordable Housing were given priority. Mr. Gurzo confirmed that they were. Mr. Sickels said that is why this project was thought to be a good application.

Councilman Zipprich asked if each project got ranked in its acceptability. Mr. Gurzo said that it did and noted that, after the presentations are done, the members of the Committee rank them and they are tabulated at the County which sends out the results about a month later. He said this also determines the funding level.

RESUME REGULAR ORDER OF BUSINESS

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

WORKSHOP

Private Storm Drain Inlet Retrofitting Ordinance

Councilman Zipprich said Engineer Ballard had been working on ordinances that had come from the DEP regarding stormwater regulations that need to be addressed. Ms. Ballard said the ordinance would require that anyone who is doing resurfacing on private property other than single family homes to retrofit their storm drain inlets. She said the ruling already applies to municipalities and is now being extended to private organizations such as condo associations. She added that if they are paving or doing curb work in the area of a storm drain they have to retrofit the opening to prevent trash from going into the storm drain.

Mayor Menna said he thought it was a good thing and if there was no objection, they would put it on for introduction at the next meeting.

Refuse Containers/Dumpsters Ordinance

Councilman Zipprich said this was part of the same program. Engineer Ballard explained that there have been studies that show that garbage leakage causes a lot of pollution in our waterways and this ordinance would require lids on dumpsters to prevent water from getting in and leakage from escaping. She noted that this is required by the DEP. Mayor Menna said if there were no questions he thought this should also be place on the agenda for the next meeting.

MOM Rail Line

Attorney Hall and Attorney Pringle stepped down from the meeting during the discussion of this item due to a conflict. Councilman DuPont said there had been newspaper articles on this subject and it is getting to the point that people need to be aware of it. He said the MOM line has been talked about and he explained that there were three options proposed for it. He noted that one of the options being considered

was for the line to come through Red Bank which he said would bring at least forty extra trains through the Borough. He said he was bringing it up tonight because he sat in traffic on Highway 35 that day for about 30 minutes. He said there was an article published on May 16 about the rail line that discussed the three options that are available which are the Monmouth Junction line which would serve Western Monmouth and Southern Middlesex County before joining Amtrak, the Red Bank route which would join the North Jersey Coast line and a third option which would call for laying tracks along the Henry Hudson Trail to join the Coast line in Matawan. He noted that the biggest expansion is in Western Monmouth and it has the largest need for service. He noted that estimated costs are \$800 million for the Western Monmouth rail line and it would be cheaper to come into Red Bank. However, he continued, Red Bank would bear the brunt of traffic congestion and said it would be a thorough nightmare.

He urged residents to contact their State Senators and Assemblymen to let them know that Red Bank doesn't need another forty trains coming through town. He said he had spoken to Freeholder d'Amico who said he was adamantly against bringing the line into Red Bank and still believes that the Monmouth Junction option is the best alternative. Councilman DuPont also noted that while the Western Monmouth MOM line was estimated to cost \$800 million, the Red Bank alternative would cost \$350 million with another estimated \$150 million for busing alternatives totaling \$500 million. He said the bottom line is Red Bank would bear the brunt of this great train traffic and noted that the Borough already suffers from delays because of trains in town and any increase would exacerbate it.

He said he thought it was important for people be aware of what has been happening and agreed that there is a need for a rail line to support Western Monmouth. He said he has asked the Mayor to urge the Two River Council of Mayors and the Mayors of the Bayshore area to pass resolutions opposing this idea. He said he wasn't going to bring the issue up but he heard the Red Bank plan was moving forward contrary to what our Freeholders and the Red Bank citizens want. He again urged citizens to reach out for their State Senators and Assemblymen to tell them they are not in favor of the additional trains coming into Red Bank. He noted that the Borough had passed resolutions opposing the MOM line, but he said they seem to have gone unheeded. He added that it is time for the voices of the citizens by the shore to be heard.

Mayor Menna said it was an important issue and was probably going to be the seminal issue for this area. He added that resolutions will be passed and coordinated activities will be undertaken but that is just the beginning. He stated that it is just not going to happen through Red Bank. He said since the unofficial word came down late last week, stressing the word unofficial, he has been distressed. He said he has already reached out to a number of his colleagues who are adjacent Mayors and they have agreed to join with him in a concerted chain of elected officials including the Bayshore area, the Two River Council of Mayors and others. He said he agreed with Councilman DuPont that the growth is in the Western part of the County, the need is in the Western part of the County and it is absolutely the height of illogic nature to try to funnel this particular rail line at some distance from where the need is just to save a few dollars and curry political favor in another county.

He said this particular proposal, if accomplished by New Jersey Transit, would sound a death knell for Red Bank and its adjacent municipalities. He added that they will not stand for it and he had already directed the Borough Engineer, with the consent of the Administrator, to start undertaking empirical and statistical information. He said our adjacent Mayors have agreed to cooperate in all resources available because this has a great impact on them also. He said they will be utilizing their collected talent with their elected representatives as well as others in State government. He added that he thought it was going to be a legitimate test for anyone running for office in Monmouth County as well as legislative office to come down squarely as to whether or not they support this particular spur to Red Bank and if they do, he continued, this Council and this whole area is going to be unequivocally lobbying against them. He noted that, if accomplished, this would put more restrictions on the west side of Red Bank and will further, unfortunately, impose a two town mentality with not just one barrier, but two. He again stressed that it would not happen and he would oppose it with every breath that he had.

APPROVAL OF MINUTES – May 11, 2009

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

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 had no report.

Councilwoman Horgan reported that members of the Human Relations Advisory Committee had attended Community Day and sold over \$300 worth of t-shirts. She said she was glad the community supported the Committee by buying the t-shirts. She also reported that the Navesink River Municipalities Committee had found out from Frank Pallone that dredging in the Navesink will take place sometime between August 15 and December 31.

Councilwoman Lewis reported that the Parks and Recreation Committee had met on the 20th and said there were four items on the agenda. She said they discussed the progress of the Boys and Girls Club and noted that there was an Ordinance regarding that project on the agenda tonight for final adoption. She said another item discussed was the plan for the Maple Avenue property. She said the Committee decided to keep it as open space for now. She added that they did get an estimate of what it would cost to do enhancements to the project and determined that it was too expensive and they decided to focus their attention on something they have committed to which was Sunset Park. She said those plans were also on the agenda at the meeting. She said the fourth item on the agenda was Count Basie Park and the fact that they had obtained a grant for turfing. She said she discussed options with moving forward with that project. She added the Red Bank Day on the 16th was a success and that they had a good turn out. She said she looks forward to continue growing that event next year.

Councilman Zipprich said he wanted to publicly thank Bob Evans from Parks and Recreation for arranging the horse drawn carriage last weekend. He said Chairman George Bowden of the Historic Preservation Commission donated his time to educate the participant about the historic sites around Red Bank. He noted that the historic tours were well attended with two full carriages that went out and added that they actually had to turn a few people away which he said was disappointing. He said he also wanted to thank David Pascale and Mary Gilligan from Historic Preservation for volunteering to work with Mr. Bowden and himself on that project. He also reported that the Shade Tree Committee is looking at the possibility of securing some leftover trees from the County to further enhance the Borough with more shade trees. He added that, should they be able to secure these trees at no cost to Red Bank, they are looking at creative ways to get them planted. He also noted that the next scheduled meeting of the Red Bank Board of Health will be Thursday, July 9 at 5:30 pm.

Councilman DuPont said he wanted to note his appreciation for the Memorial Day Service. He said, having lost his father who was a veteran, the service was special to him. He commended Bob Evans for doing a wonderful job and thanked the Fire and Police Departments for their participation. He said the Finance Department had some good news which was the fact that the dividend check had come in for the insurance and it was increased over last year's amount of \$180,000 to \$208,000 as a result of policies that were in place and the fact that the Borough had less accidents. He said that would go to the bottom line and help reduce taxes. He thanked everyone for their effort in helping to get the refund.

Mayor Menna also thanked everyone who participated in Memorial Day. He said the Council had been discussing a lot of good policy issues tonight and said he was grateful because it showed the type of quality Council that he thought they had. He said he would like to bring another topic up for their consideration that he thought they should act on also. He noted that he thought they were fortunate in Red Bank to have the best nursing homes in the area and wonderful care facilities for seniors. However, he continued, a number of States, not including New Jersey, have begun considering and taking steps to implement a program called a "Granny Cam Law." He said statistical and empirical data have shown, unfortunately, that one in twenty of every nursing home patients is a victim of abuse or crime. He added that it was sad for the person involved, sad for their families and sad for us as an institution. He said even though we have the best nursing home in the area, New Jersey, unfortunately, has still not moved forward in what the state of the law should be.

He noted that legislation has been adopted in New Mexico, Texas, Maryland and Attorney General Andrew Cuomo has begun instituting it in parts of New York without state-wide legislation. He said he would like the Council to consider passing a resolution tonight that will direct the Governor as well as the Senate President and the Speaker of the General Assembly to fast track what is called Granny Cam legislation. He explained that this would permit families with loved ones in nursing homes to install, at their own expense, video cameras in their rooms so the family could have immediate and constant contact with them. He noted that implementation could not be stopped by the nursing homes. He said it would provide a safety net, a semblance of additional care and monitoring and added that he felt it was sadly needed in our day and age as the senior population is increasing. He stressed that it was not a reflection on our local organizations, but he wanted Red Bank to be in the forefront in asking the Governor, the Senate President and the Speaker to move forward as some other states have done and institute a Granny Cam program. He noted that this would be at no cost to the nursing homes and wouldn't hurt the

businesses, but would provide greater responsibility. He said he had prepared a resolution and, if the Council was on Board, he would like Red Bank to be the first in the State to move ahead and ask their leaders to start considering it.

Councilwoman Horgan asked what safeguards would prevent someone from turning off the camera. Mayor Menna responded that, if it was turned off, the person that installed it would know right away because it is electronically tied into the provider of the service.

Councilman DuPont said he would like to see additional information from other States including reasons why and costs. He said he was presuming the installation would increase some cost to the businesses. Mayor Menna said that was not the case and that the cost was born by the family member. Councilman DuPont said it sounded like a wonderful idea, but he would like more information. Mayor Menna said he was bringing it to their attention because he thought they could be in the forefront on the issue. He added that he thought this initiative would show sensitivity to those who couldn't come to Council meetings and he felt the Council had an obligation to them. Mayor Menna said he would be happy to provide the additional information.

Councilman Zipprich asked if a draft form was in the Legislature. Mayor Menna said they weren't even considering it and that what Red Bank would be asking was for them to consider it.

Councilwoman Lee expressed concerns that only the wealthy could afford to install the cameras. She said she thought abuse took place at all levels and suggested an addition to the resolution to provide funding so all families could have the service.

Mayor Menna said the issue in other states was not one of cost but of confidentiality and privacy issues which he said would be precisely why we as a society would want to make sure that we have greater transparency and greater visibility.

Councilwoman Lee said she would be happy to review the resolution. Mayor Menna said he would have it ready for the next meeting and added that he thought it was a public policy issue.

1 COMMUNICATIONS AND PETITIONS

Mayor Menna read a request from The Leukemia & Lymphoma Society for use of pop-up tents in Riverside Gardens Park on September 26, 2009 during their 2009 Walk, Light the Night event.

Mayor Menna noted that this organization had already been given permission to use the park and said they were now asking for permission to put up pop up tents and use the first staging area to inflate balloons. He added that he believed the Borough had a policy against balloons because of the impact on the environment, aquatic life and birds. Several Council members agreed. The Council said they were inclined to approve the event, but without the pop up tents and without the balloons. Administrator Sickels noted that the group had originally applied for a large tent to be erected in the park and were told that that was not allowed in Riverside Gardens Park. He said he believed they wanted the pop up tents to be located along patio area to cover the registration and a couple of booths similar to the Jazz in the Park vendors. He said it was less obtrusive than their original request and wouldn't cause damage to the turf.

Councilwoman Lee said she thought the Council had made the decision that these types of events would be allowed at Marine Park but that not at Riverside Gardens. Mr. Sickels noted that the pop up tents have been allowed there for other events. He added that the tents would be anchored to the railings rather than staked into the ground. Council members reviewed the plan and the number of tents being requested and expressed concern about the number of tents. Councilwoman Lee noted that the park would still be open to the public and she felt that the number of tents requested would be too intrusive. The Council said they should be asked to revise their plan and again noted that the police has always been that tents are not allowed in Riverside Gardens Park.

Councilman DuPont offered a motion to deny 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 denied.

Mayor Menna read requests from Clean Ocean Action, Special Improvement District, St. Anthony's Church and The Sodality of the Children of Mary of Saint Teresa for raffle licenses.

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

ROLL CALL:

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

NAYS: None

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

Mayor Menna read a request from Broad Street Filling Station, 128 Broad Street, to display a temporary 30'x22" sign along the railroad ties surrounding their outside dining area to advertise their deli and dining area.

Mayor Menna noted that this particular business was in the middle of the block but its outside dining area was at the corner and physically separated from the business. He added that this would help to let people know that the area was tied into the deli. He also pointed out that it was temporary for the season.

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 Liberty Hose Company No. 2 of the Red Bank Volunteer Fire Department to hang a banner on Shrewsbury Avenue from June 17, 2009 to June 28, 2009, on Broad Street from June 28, 2009 to July 5, 2009 and in the RiverCenter banner location on Broad Street from July 5, 2009 to July 13, 2009 to advertise their annual memorial car show.

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

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 Monmouth Day Care Center to hold a fundraising truck show and family day in the parking lot of the Two River Theatre on September 12, 2009 with a rain date of September 13, 2009 in honor of their 40th Anniversary, pending approval of the Special Events Committee.

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

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 White Butterfly at Red Bank, 14 Monmouth Street, to have entertainment outside their store periodically to promote business to their area, pending approval of the Special Events Committee and RiverCenter.

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

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

Mayor Menna asked if anyone from the audience wished to address the Council on any resolutions or ordinances on the agenda first reading.

Steven Hecht—135 Branch Avenue—said he had a question about a discrepancy between the agenda he picked up at the meeting and the one he had printed from the website. Specifically, he continued, regarding tax appeals that were withdrawn from the agenda. He said the reason for his question was in regard to some things that happened at the last Council meeting. He noted that some tax appeals were tabled at that meeting and the Council then held a discussion before returning for a vote. He said his first question was regarding the process and asked why they withdrawn. Mayor Menna said the Council had insufficient information for the Council to make a decision. Mr. Hecht asked what happens then and asked if they would come back to the Council. Mayor Menna said if and when the information is provided, and the Borough Attorney believes it should be brought forward, it will be on the agenda for action. He again noted that there was not enough information for them to make an informed decision at this point.

Mr. Hecht said he also had a question about the resolutions which he said were obviously worded to satisfy all of the legal requirements. He questioned a phrase regarding Borough's Valuation Expert and asked who and what that was. Attorney Hall said it depended on the case but was usually one of two professional appraisers. Mr. Hecht asked if the Tax Assessor wasn't a professional. Mr. Hall explained that they needed an independent expert to testify in the event of a trial or complaint. Mr. Hecht asked if it was standard procedure that Municipalities hire people that are qualified if there is no contest, but are not qualified if there is a contention that the assessment is incorrect. Administrator Sickels clarified that if an assessment is contested, the Borough has to establish by an independent appraiser the value of the property. He added that the assessment may have been made through a revaluation or a reassessment, but when the Borough goes to litigation, they need to have a professional determination. Attorney Pringle asked Mr. Hecht to remember that the property owner is submitting an appraisal from a certified appraiser in support of their tax appeal case so the Borough needs to have its own expert. He added that the assessment is not done at the same level as an appraisal and said when a property owner presents a certified appraisal with comps, etc., the Borough needs to defend at the same level of expertise.

Mr. Hecht asked which side the burden of proof was on in a commercial appeal. Mr. Hall said it was always on the tax payer. Mr. Pringle said the only difference between residential and commercial was that with residential comparative sales is the only basis for the valuation. On the commercial properties, he continued, it could be comparative sales, replacement value or the income method in which rents are calculated to determine the value. Mr. Hecht asked if there was an option for direct appeal for residential or if it was only for commercial. Mr. Pringle said he believed that that was only if it was over a certain amount. Mr. Hall added that, to go to tax court, one's house has to be assessed at over \$750,000 or a decision can be appealed from the County Tax Board.

Mr. Hecht noted that it was not clear to him at the last meeting that the Council was going to come back and vote. He also asked for clarification on the items that were removed from the agenda. Mayor Menna said if they did not appear on the agenda, there was no request for settlement and they would just go to trial.

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

ROLL CALL:

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

NAYS: None

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

ORDINANCES – First Reading

2009-18 Mayor Menna read "AN ORDINANCE OF THE BOROUGH OF RED BANK, COUNTY OF MONMOUTH, NEW JERSEY AMENDING AND SUPPLEMENTING THE CHAPTER XXV, PLANNING AND DEVELOPMENT REGULATIONS, SECTION 25-10.2, "DESCRIPTION OF DISTRICTS", TO INCLUDE THE DESIGN DISTRICT OVERLAY ZONE (DDO ZONE)."

Mayor Menna explained that this would amend the definition to include the Historic District in the Design Overlay District.

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

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 8, 2009.

2009-19 Mayor Menna read "AN ORDINANCE OF THE BOROUGH OF RED BANK, COUNTY OF MONMOUTH, NEW JERSEY AMENDING AND SUPPLEMENTING THE CHAPTER XXV, PLANNING AND DEVELOPMENT REGULATIONS, SECTION 25-5.30, "HISTORIC DISTRICT REGULATIONS."

Mayor Menna said this would codify the proposed Washington Street Historic District Corridor and noted that includes a list of all of the properties in that district.

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

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 8, 2009.

2009-20 Mayor Menna read "AN ORDINANCE OF THE BOROUGH OF RED BANK, COUNTY OF MONMOUTH, NEW JERSEY AMENDING AND SUPPLEMENTING THE CHAPTER XI, "BUILDING AND HOUSING," SECTION 11-1, "STATE UNIFORM CONSTRUCTION CODE."

Mayor Menna explained that this allowed for a slight increase in construction code fees and it was consistent with the State-wide statute.

Councilwoman Lewis offered a motion to adopt the ordinance on first reading, 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 declared adopted on first reading.

Public hearing and final adoption scheduled for June 8, 2009.

2009-21 Mayor Menna read "AN ORDINANCE AMENDING CHAPTER VIII, "PARKING LOTS AND HANDICAPPED PARKING SPACES," SUBSECTION 8-2.8, "RESTRICTED PARKING" OF THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF RED BANK."

Mayor Menna said this ordinance would address requests from individuals with a challenge or disability and seeks a handicap restricted space in front of their residence as allowed by State law, it has to be approved by ordinance for the duration of the disability.

Councilman Murphy 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 8, 2009.

2009-22 Mayor Menna read "AN ORDINANCE OF THE BOROUGH OF RED BANK, COUNTY OF MONMOUTH, NEW JERSEY AMENDING AND SUPPLEMENTING THE CHAPTER XXII, FLOOD HAZARD PREVENTION."

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

ROLL CALL:

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

NAYS: None

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

Public hearing and final adoption scheduled for June 8, 2009.

ORDINANCES – Public Hearing & Final Adoption

2009-17 Mayor Menna read "AN ORDINANCE AUTHORIZING THE EXECUTION OF A LEASE AND OPERATING AGREEMENT WITH THE BOYS AND GIRLS CLUB OF MONMOUTH COUNTY TO PROVIDE YOUTH-ORIENTED PROGRAMS AT THE BOROUGH OWNED PROPERTY LOCATED AT THE BUILDING AND PREMISES KNOWN AS 136 DRS. JAMES PARKER BOULEVARD, BLOCK 77, LOT 22."

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

Councilman Murphy offered a motion to close the public hearing, seconded by Councilwoman Horgan.

ROLL CALL:

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

NAYS: None

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

Councilwoman Lewis offered a motion to adopt the ordinance on final reading, 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 ordinance was declared adopted on final reading.

RESOLUTIONS

09-140 Mayor Menna read "A RESOLUTION AUTHORIZING ACCEPTANCE OF PERFORMANCE GUARANTEES AND INSPECTION ESCROW REGARDING 342 BROAD STREET HOLDINGS, 342 BROAD STREET, BLOCK 99, LOTS 20 & 21."

Councilwoman Lee 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.

09-141 Mayor Menna read "A RESOLUTION AUTHORIZING CHANGE ORDER NO. 1 SPRING STREET, PHASE II RELATED TO THE CONTRACT WITH A. MONTONE CONSTRUCTION FOR THE 2007/2008 ROAD PROGRAM."

Councilwoman Lee 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.

09-142 Mayor Menna read "A RESOLUTION AUTHORIZING ACCEPTANCE OF PERFORMANCE GUARANTEES AND INSPECTION ESCROW REGARDING HEYER, GRUEL AND ASSOCIATES, INC., 236 BROAD STREET, BLOCK 101, LOTS 15.01 AND 16."

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

ROLL CALL:

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

NAYS: None

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

09-144 Mayor Menna read "A RESOLUTION HONORING JEFFREY BRINDLEY AS HIGHEST RANKING RED BANK SENIOR."

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

ROLL CALL:

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

NAYS: None

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

09-145 Mayor Menna read "A RESOLUTION ADOPTING AN IDENTITY THEFT POLICY."

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.

09-146 Mayor Menna read "A RESOLUTION AUTHORIZING APPROVAL OF SIDEWALK CAFÉ FOR NO ORDINARY JOE."

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.

09-147 Mayor Menna read "A RESOLUTION AUTHORIZING APPOINTMENT OF GARY A. WATSON, SR. AS DIRECTOR OF PUBLIC UTILITIES."

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.

09-148 Mayor Menna read "A RESOLUTION AUTHORIZING TAX APPEAL SETTLEMENT REGARDING BLOCK 4.01, LOT 24, BASIL T'S, 193 RIVERSIDE AVENUE, RED BANK, NEW JERSEY."

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

ROLL CALL:

AYES: Zipprich, DuPont, Horgan, Lee, Murphy

NAYS: Lewis

There being five ayes and one nay, the resolution was declared approved.

09-149 Mayor Menna read "A RESOLUTION AUTHORIZING THE PREPARATION AND DELIVERY OF ESTIMATED 2009 3RD QUARTER TAX BILLING."

Councilman DuPont 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.

09-151 Mayor Menna read "A RESOLUTION SUPPORTING THE NEW JERSEY SENATE BILL NO. S-1622 AND URGING THE PASSAGE OF SAME BY THE NEW JERSEY LEGISLATURE AND GOVERNOR JON S. CORZINE."

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

Mayor Menna explained that this would reaffirm the foreclosure restraints that have been imposed and urges the State to impose the restraints on COAH units which are now being lost as a result of foreclosures. He added that the intent of the legislation is to make sure that those foreclosed units go to individuals that are also eligible.

Councilman DuPont noted that there was a recent appellate court case that said the way to prevent this was for the municipality to intervene with the foreclosure action. He said he believed this would stop the loss of Mt. Laurel Housing. He added that he read it to say that the housing was identified as Mt. Laurel housing and noted that if the Borough did not intervene it would lose that unit's designation.

Mayor Menna confirmed that that was correct and said that was precisely why this particular legislation was winding its way to the Governor's desk because it is going to mandate that those actions can proceed but the properties will have to go to other qualified COAH recipients. He also noted that the case also

said the Red Bank or any other municipality would have to go into court and fight the foreclosure and questioned who would pay for that.

Councilman DuPont said that what happened in the specific case he referenced was that the town failed to act and that all the town had to do was file pleadings indicating that this was on the COAH list and that would stop the foreclosure action. He asked how this resolution would coincide with that.

Mayor Menna said it doesn't hurt it and he could think of no greater champion of affordable housing and the rights of individuals to affordability of housing in this State than Senator Ronald Rice of Newark and he was the one that had sponsored this particular legislation. He added that he did not think this was in conflict with that case, but moved it along a lot faster administratively.

Councilman DuPont said he hadn't read the bill but he had read the case the may have spawned the legislation. He said didn't see a need for the bill if the case prevents it. He agreed with the Mayor that foreclosures need to be stopped.

Mayor Menna said he knew the legislature was trying to deal with it administratively so that individual municipalities don't have to go to court. He again noted that Senator Rice was the greatest advocate for affordable housing in New Jersey and he thought it was necessary and important. Councilman DuPont noted that they have one of the highest foreclosure rates. Mayor Menna said that is exactly why he's trying to stop it.

ROLL CALL:

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

NAYS: None

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

09-152 Mayor Menna read "A RESOLUTION AUTHORIZING A FOUR DAY WORK WEEK FOR CERTAIN BOROUGH EMPLOYEES AND OFFICES."

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.

PROCLAMATIONS

PAYMENT OF VOUCHERS

09-153 Mayor Menna read "A RESOLUTION FOR PAYMENT OF BILLS AMOUNTING TO \$2,319,282.97."

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

OLD BUSINESS

NEW BUSINESS

Councilman Zipprich said the Navesink River Rowing Association would be hosting a Learn to Row Day on Saturday, June 13, from 9am to 1pm. He said they will offer a free rowing demonstration and more information was available on their website which is navesinkriverrowing.org. He also noted that he was

happy to represent the Borough Council at the Basie Awards last week at the Count Basie Theatre. He thanked the theater for doing what they do for our high school students.

AUDIENCE

James Crawford—54 Leroy Place—asked what was going on at Maple Cove. Mayor Menna said Councilwoman Lewis had already announced that. Mr. Crawford said he didn't understand and wanted to clarify that nothing was going to happen there. Councilwoman Lewis said the area was not going to be developed at the time. Mr. Crawford asked if there was not going to be public access. She said it was not going to be developed into an official public recreation area or park. He asked if that would negate plans by someone who was willing to put in the time and effort to get volunteers to clean up the place and get material such as a bench donated. He said he didn't understand why the Council wasn't encouraging her and working in conjunction with her as long as she was willing to put the energy into it.

Mayor Menna asked Mr. Crawford to clarify who he was referring to as "her." Mr. Crawford said he was referring to Cindy Burnham. He added that he has been participating in clean ups at the property and said he didn't understand why she doesn't get encouragement to do as much as she can if the Borough isn't going to put time and money into making it a park. He also asked why we couldn't get a fast track permit for a bench. Mayor Menna asked who would be paying DEP for the permit. Mr. Crawford asked how much it was. The Mayor told him it was \$9,000 for the DEP inspections and permit. He added that if someone wanted to work on things that don't require permits from DEP, they can work with the Administrator to coordinate that.

Mr. Crawford asked what was happening there in regard to construction debris. Mayor Menna asked him what construction debris he was referring to and asked the Administrator to address the question. Mr. Sickels noted that there was a project going on adjacent to the park regarding the installation of a long awaited traffic signal at Maple Avenue and Water Street. He said the contractor is using a Borough owned parking lot for the staging of materials and that is what Mr. Crawford had seen. Mr. Sickels said what has been discussed was doing improvements to what it already a public access area that is on the Borough's Environmental inventory and can currently be used to access the water. He noted that Ms. Burnham has stated that she has used it as a beautiful place to launch her kayak. He said the Borough is saying that it has other projects that the Council has been working on for years such as the demolition of the incinerator. He noted that they have to use funding to pay for the engineering and permits for that. He added that they have to have a two year plan to develop that into public access. He said they are also on the third phase of Count Basie Park improvements and some things have come up that they did not anticipate and they have to put money towards. What had been proposed, Mr. Sickels continued, was to create a path, put stone down and install benches. He said any one of those things requires a permit from the DEP. He said they have researched it and have had the Engineer prepare a sketch of what we would like to see there. He said he didn't think the project was over and he thought the Council was committed to doing something there in the future but right now there were limited funds and other projects that were in process. He said the Committee had said that right now it didn't have the funding because they did not budget for it.

Councilman Murphy noted that Marine Park improvements are also about to begin. Mr. Sickels pointed out that the Borough had to put money toward that as well.

Bill Myer—12 Monmouth Street—said he wanted to follow up on issues regarding Maple Cove. He said it was his understanding from reviewing DEP rules and regulations was that there was an application or permit by rule form and that this particular plan for improvements to Maple Cove park would fall under and would not require an application to the DEP. He said he didn't think it would require any funds, certainly not \$9,000. Mayor Menna told Mr. Myer, if he had that information to please give it to the Council. Mr. Myer said not only did he have it but he thought Ms. Burnham had it also. The Mayor asked that she provide it to the Administrator. Mr. Myer said he thought she had discussed it with the Borough Engineer and with the DEP. He said one of the reasons he would like to see this happen was that these were those cost effective, easy types of improvements that make it quite usable. He reviewed the history of the lot being discussed and the history of a boat launch that use to be over by Riverview Hospital. He said he didn't understand why the Borough got rid of it. Mayor Menna said it was due to liability issues and that the decision was made on the advice of their insurance carriers at that time who deemed it unsafe. Councilman DuPont said the Borough would have been unable to get insurance and noted that the decision was made around the time there was a case regarding an incident in Monmouth Beach. Mr. Myer asked if the Borough had even been sued regarding the boat ramp. Mayor Menna said it had not, but when you are on notice, you act.

Mr. Myer said he thought it was a lot better to go out and do something proactively to make something safe than to throw something in the garbage and run away from it. He added that he thought the sale was unfortunate and definitely to the disadvantage of most of the people in this town. He said it pretty much cut off most people in this town from the river especially on the east side of Route 35 which is the area where people would most likely get access. He said now the Borough has that money which he thought

was very little and estimated at \$200,000 the was received for selling the rights to Riverview. He said, in his opinion, that was ill-advised. He said the money has sat fallow for a long time and that it should have been earmarked to provide a replacement access which was never done. He commended Ms. Burnham for taking the time and effort for no compensation. He said the Borough has an access that just needs a little bit of improvement to be more user friendly. He said the last time he was here he thought someone said they were going to make sure it moved forward so it could be opened, in what he assumed was an improved condition, for the summer and asked if that was still going to happen.

Mr. Sickels said that everyday that goes by, the Borough sees different challenges to the budget which, he noted, was still not a finalized product. He said they have to come up with funds to cover other expenses and other issues. He said the Borough on several levels, including some Council people, was going forward and trying to solicit some further improvements from some contractors working in town to see what they can do about dressing up some of the loose ends but that they do not have the funds to finalize the plan right now.

Mr. Myer asked what would happen if it was not going to cost money for an application.

Councilman DuPont said he thought everyone on the Council wanted to have the cove done but noted that they had been receiving estimates that it was \$9,000 for a DEP permit and \$80,000 to do renovations. He noted that they were trying to protect the budget and said that they don't have \$80,000 to spend if, in fact, that estimate is accurate. He also said he thought it was wonderful if the Borough could get a DEP permit as described by Mr. Myer. Mr. Myer said he didn't think it was a permit and described how he thought the permit by rule process worked. Councilman DuPont said regardless of what it was, he felt the Borough needed to explore that. He also noted that if there are going to be donations such as a bench, he thought the Council would be in favor of it. Mr. Myer said that is what he thought they had been doing for the last couple of weeks. Mr. Sickels said that it was but noted that everything that has been proposed so far has required a permit according to conversations he has had with the DEP. Mr. Myer asked if members of the public were included in that and asked that Ms. Burnham be included since she has done so much leg work. Mr. Sickels said some of the conversation was in response to an email she sent to the DEP and that she had already made the case and the Borough was told it would need a permit. He said he didn't know how much more included he could get her. Mr. Myer asked Mr. Sickels if he found that in order to lay the stone where they requested it would require a permit. Mr. Sickels said yes.

Councilman Murphy said it was more than that and said it would apply to even the setting of a bench. He said the Parks and Recreation Committee reviewed the information and found that anytime one is anywhere near the high tide zone, they need a permit from DEP and the DEP wants to see a design. He said they did a simple design mirroring what the Hovnanian property has to the left and found that do that including design work and permits would be roughly \$80,000. He noted that Marine Park was under construction and the Borough was obligated to do work for Sunset Park, which he noted was being paid for by a grant but required a park design with in two years. He also discussed problems at Count Basie Park. He said they appreciated the work done by Ms. Burnham but noted that he did not remember a path being there but suddenly one appeared. He said he wasn't accusing anyone of anything but things were coming back to the Borough and he noted that they were responsible for what happened down there. He again noted that anything in the high tide line requires a permit and in order to get a permit they need a design. He noted that Ms. Burnham said a one time that she had a letter from the DEP but when the Administrator checked it would, he was told a permit was needed. Councilman Murphy also noted that the only permit he is aware that can be obtained in a two week time frame if for building on the river under 400 square feet to an attached home within the guidelines of the structure. He said if they had other information, the Borough would be happy to process it.

Cindy Burnham—Harrison Avenue—said she thought what Mr. Myer was referring to was a copy letter she got from T&M that was from the DEP and stated there was a permit by rule that could be applied to the portion of the structure over the uplands. She said she wanted to address Engineer Ballard and noted that there were different permits by rule and that it did not need an engineers calculation which would save money and it also would not need DEP approval. She said there were certain ones where you needed to write the DEP a letter before you do it. Engineer Ballard disagreed and said they had had a meeting with the DEP and they had put in writing to the Borough what was required. Ms. Burnham acknowledged that she had a copy of that letter. Ms. Ballard said the permit by rule required signed and sealed plans and noted that it would take a lot of work to put together the documents required. She said it is not just a check box, she said there was all sorts of mapping required, environmental studies, etc. She also noted that the Navesink River is a C-1 waterway which had a much higher standard of requirements.

Ms. Burnham continued to ask Ms. Ballard specific questions about the permit by rule including a statement about placing no more than five cubic yards of fill outside of the flood bay. Engineer Kosenski said he didn't know what she was reading, but told Ms. Burnham that this was considered a coastal zone and floodway regulations do not apply to the Navesink River. He added that the first property between a major roadway and a river is strictly controlled by the DEP. He said while a floodway is an area that this could be considered, but it has a higher standard because it is adjacent to the Navesink River. He said he

did not believe what she was reading would apply and noted that they had spoken with the DEP on several occasions and one over the requirements.

Councilman Zipprich asked for a layman's term explanation of what a floodway was. Engineer Kosenski said under New Jersey requirements, a floodway was a piece of land adjacent to river that floods from rainflow and noted that the Navesink River doesn't flood from rainflow. He also pointed out that it is a coastal river and protected by other regulations. He said it would require a waterfront development permit, which is a higher standard than a floodway. He said the waterfront development permits are much different and more stringent. He said the floodway regulations do not apply here.

Ms. Burnham said she noticed there was a lot of grey. Mr. Kosenski said there was no grey for him. He said they had called the DEP and asked them. He added that this wasn't their interpretation of the rules, it was the DEP's interpretation of the rules. He said they called and told them what the Borough wanted to do and the DEP representative came down and met with them. If he had said they could do it by rule, Mr. Kosenski continued, he would have reported that.

Ms. Burnham said she thought it was a mixed message and noted that one letter from the DEP said the permit by rule would apply and another said it needed a permit and asked which one it was. Mr. Kosenski said he would have no problem calling the DEP and going over the sketch again. Ms. Burnham said that would be good because she just wanted to get the stone down in the path.

Mr. Sickels pointed out that not everyone agrees that they want stone there. She accused Mr. Sickels of not wanting the stone there. He clarified that it was not him, but others that didn't want it because a stone path didn't exist there. She said the stone didn't but the path was there a year ago. Mr. Kosenski disagreed and said the path was not there when he had been there. Mr. Sickels acknowledged that there was a foot path that was worn through the vegetation. Ms. Burnham again asked the Council to get some stone at the location.

Mayor Menna said to the extent possible, the Borough will cooperate with all volunteers on that site. He noted that they had to do it within the constraints of whatever the applicable NJDEP regulations are. He said he was not an interpreter of DEP regulations and rules and he thought that everyone on the Council would be foolhardy if they did not rely upon the interpretation reported by their professionals. He told Ms. Burnham that if there was some issue she wanted to raise, Mr. Sickels, Mr. Kosenski and Ms. Ballard could get together with her and see if there was commonality of thought. But, he continued, until that is shown to them, they have to be guided by a cautious attitude because it could end up being a very expensive proposition since the DEP opposes substantial fines and penalties for any violations of their rule making authority.

Ms. Burnham said she wondered about the staging activity that was going on down there because she said she dropped a load of dirty stone within 100 feet of the high tide line and they are doing some type of construction down there within 150 feet of the high tide line which she suggested was in violation. Councilman Murphy said they were not doing construction down there but are doing it at the top of the hill. Ms. Burnham argued that she had been down there and seen it. Councilman Murphy said they are parking their vehicles down there and keeping materials they need for the site at the top. He noted that the Borough owns the parking lot and the property.

Ms. Burnham asked if there would be a sign at the location. Councilwoman Lewis said the Borough had held a naming contest but hadn't made a decision on whether or not they were going to get a sign. Ms. Burnham questioned naming it but not putting up a sign. Mayor Menna said there were more important issues than a sign when the town is facing a \$500,000 deficit. She noted that she could have gotten it for free and again asked them to put up a sign.

Steve Fitzpatrick—92 Hudson Avenue—thanked Mr. Hall for his timely response for the OPRA request and asked for a response to the fact that all four areas of his requests were met with the same response which was that Special Counsel Bennello was reviewing the documents and that it would be up to his deliberation as to whether they would be released or not. He asked if he would be expecting a response from Mr. Bennello on this matter anytime soon. Attorney Hall said he could not speak for Mr. Bennello. Mayor Menna said he would speak with Mr. Bennello and make sure that he gets a response within the week. The Mayor added that it was an OPRA request and he thought the Borough had an obligation to respond yes or no and if no why it was no.

Mr. Fitzpatrick said Mr. Hall had been gracious enough to send him the emails regarding the matter and noted that there were 152 pages of them. He showed the documents he had received and noted that much of the information had been redacted and questioned the transparency in the matter. He said in reviewing what was revealed, two things jumped out at him. He asked for clarification on the legal term "slander of title." Mr. Hall and Mr. Pringle said they were conflicted on the matter and could not comment but suggested he search the term on the internet. Mr. Fitzpatrick expressed his frustration. Mayor Menna noted that Mr. Fitzpatrick was the one who had brought up the potential conflict. Mr. Fitzpatrick

questioned why the attorneys that were Councilmen couldn't answer. Mayor Menna said he wanted to make it clear that they were not acting in a legal capacity but were serving as elected officials and could not give legal opinion.

Mr. Fitzpatrick also asked about the term "constructive trust theory" and received the same response. He again questioned why they couldn't answer and Mayor Menna noted that they may have differing opinions.

Mr. Fitzpatrick said he noticed that there were some email exchanges with Councilman DuPont and asked if, since his law partner, Ed McKenna was on the Board of Directors for the Children's Cultural Center and the YMCA, Mr. DuPont had considered recusing himself. Councilman DuPont said he would have to recuse himself and would not be able to vote on it. He also noted that he has recused himself from any discussions.

Mr. Fitzpatrick asked Councilman Murphy about the fact that there was a vendor listed as A.V. Murphy regarding constructual probes done around 1999 and asked if that was his business. Mr. Murphy confirmed that it was and discussed that work that he had done. He said he had forgotten about it and noted that he had bid on work but had not gotten the job. He noted that he was not on Council at the time.

Mr. Fitzpatrick asked again about his OPRA request and Mayor Menna said he would have a response from John Bennello in the next few days. Mr. Fitzpatrick asked if the controversy was continuing. Mayor Menna said it was and there was no resolution to day.

Councilman Murphy questioned whether or not he would have to recuse himself from discussions on the matter. Mayor Menna noted that he hadn't even recalled until asked by Mr. Fitzpatrick and suggested he exercise on the side of caution now that his memory was refreshed. Attorney Pringle suggested that he seek guidance from Mr. Bennello.

Tom William—85 Locust Avenue—said he thought there were some relative issues in regard to Maple Avenue. He noted that the town had received a grant from the State of New Jersey in the amount of \$65,000 to develop a river access plan. He noted that this plan unfolded over a two year period where local government stakeholders were involved along with the public in developing an access plan. He noted that there were meetings held, data was collected and a plan was developed. He said Maple Avenue was not identified as a site for the activities that are being portrayed. He said another relative issue is that a local businessman has spent hundreds of thousands of dollars to develop access to the river across from the Galleria. Mr. Williams said this businessman has spent two years in front of the DEP to get his permits and he came before the Zoning Board and was granted an extension. He said the man is still working on a mixed use building that will be an office upstairs and the downstairs would be a building for canoe and kayak rental and storage with all the proper facilities for this activity including bathrooms. He said he didn't think it was appropriate for the Council to give away access to the river when someone has made an investment in this town. He said he thought a lot of these issues had been investigated and the idea of a boat ramp has been talked about for years but there is not site in this town that is appropriate for a boat ramp. He noted that boats come with trailers and questioned where someone would park a boat and a trailer. He said it was very easy for someone to drive across the bridge and pay ten dollars at that boat launch and be able to park their car and trailer. He said he has watched things happening at the end of Maple Avenue over the years and, in his opinion, that habitat has been destroyed. He said people do not need to have access to every portion of the river and he didn't think the Council should be wasting time on Maple Avenue when there are other issues that are important like a waterfront park on the Westside of town.

Councilman Murphy noted that there was a boat launch in the other direction in Fair Haven that also had an area for parking. He also said he felt the Council was being unfairly criticized and noted that they do a lot and get accused of not doing enough. He said there are two perfectly good boat launches within three miles of each other and both offer parking and a location to launch a boat safely. He praised the business owner who he said has spent money to make his site accessible, cleaned it up and done everything they have asked him to do.

Bill Myer—12 Monmouth Street—said he wanted to remind the Council that there was a boat ramp in Red Bank. The Mayor noted that that point was already made. Mr. Myer said he also took issue with the fact that they were saying that a business owner who spent money to open a business on the Westside and that if the town provides the service it would in some way compete.

Mayor Menna said that was not what they were saying. Councilman Murphy said he was just making the point that there were plenty of places to launch a boat.

Cindy Burnham—Harrison Avenue—said she wasn't talking about launching trailers, but more of an open space, natural hand launching area for kayakers and canoers. She said kayaking was an up and coming thing and would be a draw to bring people in. She again said she wanted a path and a bench.

Councilwoman Lee said people would also want a bathroom. She noted that this was an example of an individual who had complied with all of the ordinances and standards to create something that individuals and families can use with all of the proper facilities.

Kim Senkeleski—49 John Street—said she had gotten the impression that this project was almost done. She asked if, aside from the benches and stone, could she bring her children and walk along the water. Mayor Menna said it was open space but the problem was they couldn't install impediments such as walkway without approvals.

EXECUTIVE SESSION

09-154 The Attorney read a resolution to adjourn to executive session to discuss personnel and contract negotiations.

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

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 Lee 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