

**MINUTES
REGULAR MEETING
MUNICIPAL COUNCIL – BOROUGH OF RED BANK
SEPTEMBER 28, 2009
6:30 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, Assistant Attorney Hall, Engineer Ballard and Chief Financial Officer Mason.

ABSENT: Councilwoman Lewis, Attorney Pringle and Engineer Kosenki.

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 September 8, 2009.

WORKSHOP

APPROVAL OF MINUTES – September 8, 2009

Councilman Murphy offered a motion to approve the minutes, seconded by Councilman DuPont. Councilwoman Horgan said she would have to abstain because she hadn't had a chance to read them.

ROLL CALL:

AYES: Zipprich, DuPont, Lee, Murphy

NAYS: None

ABSTAIN: Horgan

There being four ayes, no nays and one abstention, the minutes were declared approved.

MAYORAL APPOINTMENTS

REPORTS OF MAYOR AND COUNCIL MEMBERS

Councilman DuPont had no report.

Councilman Zipprich reported that the GermanFest had been held the day before at the Red Bank Elks Club and that both he and the Mayor had attended. He noted that he had also attended the dedication of Justice O'Hern Way and said that members of the O'Hern family were in attendance. He reported that he and Engineer Ballard had attended the H2O9 conference at Libery Science Center a couple of weeks ago and that there were a number of interesting seminars on several topics. Councilman Zipprich also reported, on behalf of the Board of Health, that there would be rabies and flu clinics in the area. He also noted that the Historic Planning commission had attended the Monmouth County Planning Awards along with the Mayor and said the award is on display in the lobby of Borough Hall. He reported that the County will no longer be recycling batteries except for those that are rechargeable and button-style batteries.

Councilwoman Horgan reported that members of the Human Relations Advisory Committee had attended the Street Fair on September 13 and distributed bi-lingual Census encouragement letters. She discussed the importance of individuals filling out the Census forms.

Councilwoman Lee had no report.

Councilman Murphy had no report.

Mayor Menna said he felt all residents of Red Bank owed a tremendous debt of gratitude to our Public School staff and Administrator. He noted that Red Bank was exposed the previous weekend to tens of thousands of people through out the world when the Public School was featured in the New York Times Magazine for its Early Education Program. He added that Red Bank was specifically mentioned as a

model for pre-school intervention. He said he was grateful to Superintendent Dr. Laura Morana and her staff for spending time with the New York Times. He said he felt all of us were stakeholders in our public school system, noting that 65 percent of our tax dollars are spent on public schools, and said it has shown demonstrative results at every benchmark. He expressed his pride in the children and said it was wonderful for the New York Times to recognize them.

Mayor Menna said he had also extended, both publicly and privately, the Borough's condolences on the death of Kevork Hovnanian noting that his funeral would be the following Saturday at St. Martin's Cathedral in New York. He said Mr. Hovnanian had the ability to place his corporate headquarters anywhere he wanted and he chose Red Bank because he had confidence in the area and he loved the area. He spoke of Mr. Hovnanian's love of his cultural roots. Mayor Menna said he had express his condolences to both Mr. Hovnanian's corporate family and to his wife and children.

COMMUNICATIONS AND PETITIONS

Mayor Menna read a request from Lockbox Productions to hold a still photo shoot on Front Street, Chestnut Street, Pearl Street, Linden Place and Broad Street on October 3 & 4, 2009 with a rain date of October 6, 2009, approved by the Chief of Police.

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 requests from Red Bank Catholic High School Booster Club, Count Basie Theatre, The Community YMCA, German School of Monmouth County, St. Anthony's Church and St. James Grammar School PTA for raffle licenses.

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

ROLL CALL:

AYES: Zipprich, DuPont, Horgan, Lee, Murphy

NAYS: None

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

Mayor Menna read a request from the YMCA to hold the 2nd Annual A Taste of the Two Rivers at the Two River Theater Company on November 16, 2009, pending approval of the Special Events Committee.

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

ROLL CALL:

AYES: Zipprich, DuPont, Horgan, Lee, Murphy

NAYS: None

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

Mayor Menna read a request from Lunch Break to hang a banner on Shrewsbury Avenue from October 1-October 31, 2009, Broad Street from November 1-November 30, 2009, Shrewsbury Avenue from December 1-December 31, 2009 and Broad Street from February 1-February 28, 2010 to advertise their anniversary.

Councilman Zipprich offered a motion to approve the request, 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 said he also wanted to remind everyone that the Count Basie Statue dedication would be the following Friday at 5pm at the Red Bank Train Station and the following morning the St. Thomas Episcopal pre-school alternate site will be opened at 11am.

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.

Senator Jennifer Beck—32 Monmouth Street—said she wanted to approach the Mayor and Council about the final passage of an ordinance regarding the Train Station overlay which would increase density from 25 units an acre to 35 units an acre. She said she had spoken with Borough officials before the meeting to try to understand the logic behind growing that density in the six block area around the train station. She said while it was not a full scale transit village, it would greatly increase the capacity for residential living in that area. She noted that in her six years on the Council, the concerns she felt citizens most often brought up was taxes and overdevelopment/congestion. She said there were also concerns about whether or not our infrastructure could withstand additional development. She said she felt the proposal before the Council would greatly change the character of Red Bank. She added that she did not think a six block radius was a small area and that most of the buildings in the area are single story at the present time. She said she felt allowing them to grow to fifty feet and allowing increased density in that area could be problematic. She noted the single family homes in the area and felt those residents would see 200 to 600 new individuals residing in their area of town. She said she didn't feel that either the infrastructure or the residents were ready to deal with that increase in density. She said she understood the desire to connect the Monmouth Street corridor from Broad Street to the Train Station, but said she didn't think this was the vehicle and added that she thought it would drastically change the quality of life for the citizens of the town. She again noted that she didn't think the infrastructure in the area was capable of handling that change. She asked the Council to consider holding off on the ordinance for further discussion.

Mayor Menna thanked the Senator for her comments.

Bill Meyer—12 Monmouth Street—said he agreed with Senator Beck's comments. He cited his experience with density applications and said he felt it was a recipe for higher taxes. He also said he felt it would be a negative for the charm and character of Red Bank. He said, over the years, the Zoning Board has not had its own experts and noted that experts can be hired to say whatever applicants want them to say. He questioned the idea that only a small fraction of the units would have school children in them. He also had issues with the traffic evaluations. He pointed out that very dense projects had already been approved, but had not been built yet. He added that he thought these would already change the character of Red Bank. He said as those applications came up, there was almost no information as to the cumulative affect because the traffic studies were all based on one day of counting cars before the projects had been built. He cited traffic problems already facing the Borough and how the changes might add to it. He said people had also had difficulty discerning the maps. He said there were questions about where the areas were and questioned why those areas were chosen. He said he did not think Red Bank needed a greater density. He said he had also noticed that Red Bank court was dealing with the issue of overcrowding in single family homes which he credited to the housing expense and the immigrant population. He said he felt that the proposed buildings would bring more overcrowding. He said he felt some people had been unable to appear at the Planning Board meetings and said he had also heard people complain about the notice. He asked the Council to take a slower and more methodical approach to the change adding that he thought the proposed ordinance would only have a negative impact.

Mayor Menna said he was correct regarding the number of summons issued for overcrowding and said they were very proud of the fact that they had been more aggressive in pursuing the issue with both tenants and landlords. He said the vast majority of the overcrowding complaints emanate from single and two family homes rather than condominiums. He noted that the most expensive apartment in Red Bank right now has an enormous rental fee and said there was not one overcrowding complaint from the property. He said there were also basically no overcrowding complaints from any of the other Borough condominiums or apartment complexes. He again stressed that the overcrowding complaints seem to emanate from the single, two and three family homes as well as illegal conversions which they are trying to address. He said they really don't see the issue with regulated properties that have a doorman or management company.

Mayor Menna said, in regard to experts, there have been cases where they have hired experts and taken cases through the court system.

Councilman DuPont took issue with Mr. Meyer's claim that there was not enough notice given regarding the Planning Board hearings, noting that Steve Fitzpatrick had questioned that last year and additional meetings were held. He asked Mr. Meyer how many meeting he thought should be held.

Mayor Menna said he did not think Mr. Meyer was saying that there weren't enough meetings but was referring to the fact that he had missed them because he was out of the country.

Mr. Meyer said he felt people didn't pick up on things quickly or easily from an ad in the paper. He added that he felt Red Bank operated largely on word of mouth. Mr. DuPont noted that the Borough had a website and a local newspaper. Mr. Meyer said he had also gotten complaints about the website. Councilwoman Horgan asked why individuals would contact him rather than the Borough regarding website issues and asked why he didn't notify the Borough. Mr. Meyer said he was doing that at this meeting. He also said he regretted that there wasn't more public participation. He added that he felt most people in Red Bank didn't know what was going on with the zoning issues and felt they would be surprised and ask why because that's what he did. He said he felt the consensus was that people wanted to move toward less dense development. He also said he thought this would have a negative affect on property values due to the unstable real estate market. He discussed the general property tax issues facing New Jersey residents.

Mayor Menna said she understood his concerns and noted that Senator Beck was present and she heard his concerns also.

Mr. Meyer said he felt taxes were higher in more dense areas. He also said he felt the town didn't want more rentals. Mayor Menna reminded him of the Fair Housing Act that didn't allow for discrimination against ownership.

Kim Senkeleski—49 John Street—said she wanted to echo statements made by Senator Beck and Mr. Meyer. She said as a candidate for Council she had been knocking on doors and she felt residents didn't want it.

Craig Gianetti of the law firm Giordano, Halloran and Ciesla said he had sent a letter to Mayor and Council regarding Ordinance 2009-40 that dealt with commercial parking facilities. He said he had felt after the previous meeting he had attended that all were in agreement that it wouldn't apply to a private parking lot, but would be geared toward public parking garages. He said he had sent in a letter on behalf of a company that was interested in valet parking to assure that this ordinance would not apply to that service. Mayor Menna said they wouldn't be charging a fee because it was their own property and being used by their own tenants therefore not a commercial lot. Mr. Gianetti said his concern was that the argument could be made in the future that parking is offered to all residents but the common fee is increased so therefore it was a fee for parking. He said he just wanted confirmation that this ordinance wouldn't apply. Attorney Hall said the Ordinance says what it says and if he wanted an interpretation he would have to go to the Zoning Officer or Zoning Board. Councilman DuPont questioned Mr. Gianetti's asking for an interpretation for a hypothetical situation and noted that if they gave a response Mr. Gianetti could request a transcript later and potentially cite the Mayor and Council's opinion. Mr. Hall agreed and said if that special situation came up, it should be interpreted then. Mr. Gianetti said he had made suggestions for revisions in a letter he sent that he felt would clarify the ordinance. Councilman DuPont noted that this ordinance had been under consideration for three weeks and Mr. Gianetti had sent the letter just a few days before.

Engineer Ballard explained the intent of the ordinance was to clarify between commercial parking facilities and off-street parking requirements. She said valet parking would be considered an accessory of the business and is calculated as part of their off street parking requirement.

Mr. Gianetti noted that he had suggested a revision to the ordinance to make two paragraphs C and E read the same regarding commercial parking. Attorney Hall acknowledged that that change had been made and that it was not reflected in the copies distributed. He said it was a minor change and that it could move forward tonight and the change was noted.

Steve Fitzpatrick—92 Hudson—said he wanted to speak to Ordinance 2009-46 regarding the regulations controlling the affordable housing overlay zones. He said the map attached to the copies distributed was not discernable. Mayor Menna said he raised a valid point. Mr. Fitzpatrick said the professionals usually had larger maps on display so property owners could tell if their property lied in the zone or not. Mayor Menna suggested they could hold the public hearing and defer action and asked Attorney Hall his opinion. Attorney Hall said he would not recommend deferring action and said, while Mr. Fitzpatrick's point was well taken, the map had been available for inspection. Mr. Fitzpatrick said he had gone to the Zoning Office and asked for a copy of the map which was much larger. He said he asked to see the original map that they usually have on file and was instructed that he would have to go to the Borough Clerk's Office. He said the Borough's Clerk's Office would obviously only have the size of map that was provided at this meeting. He added that he felt the ordinance, as presented, was defective and should be corrected so everyone could see the block and lots. Councilwoman Horgan said she was able to see well on the map she received and confirmed that it was the same map that Mr. Fitzpatrick had. He said if it was going to be tabled he would defer comment. Mayor Menna said he didn't know what the Council would do so to go ahead with his comments.

Mr. Fitzpatrick asked Councilwoman Lee if she was a member of the Planning Board. She confirmed that she was. He noted that the Reexamination report developed by the Borough highlighted four locations for Affordable Housing and the zones presented now don't match that report. He asked how the Planning Board came to the decision to delineate the zones that are on the map.

Mayor Menna suggested tabling the matter for a special meeting the following Wednesday and a discussion followed. Councilman DuPont said he felt if there had been a map available that people were able to inspect over the last several months, the Borough should not have to incur additional costs by postponing the matter for two days just to attach a bigger map. Mr. Fitzpatrick said he felt any matter affecting Zoning or tax maps should be fully delineated. Administrator Sickels noted that there had been several hearings at the Planning Board level where full size color maps were on display. Councilman DuPont said he did not disagree with Mr. Fitzpatrick's goal, but noted that nothing would really change between this meeting and Wednesday and felt the Borough shouldn't incur the added expense of a special meeting would. Mr. Fitzpatrick suggested the matter be table until the next regular meeting. Mr. Hall noted that there was deadline from COAH that had to be met. He said there was no legal reason the Council couldn't act tonight but had no problem with a special meeting if that is what they wanted to do. Councilman DuPont again expressed his concern with holding a special meeting just to attach a larger map but said he would defer to what the Mayor wanted to do.

At Councilwoman Lee's request, Attorney Hall reviewed the possible penalties that occur if Red Bank failed to meet the COAH deadline. Mayor Menna said he understood there was a larger map for review. Councilman DuPont agreed that a larger map had been presented when the public hearings were held. Mr. Fitzpatrick acknowledged that there was a map available for the reexamination report and said it was a good size and discernable. He said the map presented now was prepared not too long ago adding that he had gone to Zoning looking for the new map and he was not afforded the opportunity to review it. Councilmembers asked Mr. Fitzpatrick what he was looking for. He said he could not see the property lines and block and lot numbers. Attorney Hall said it was the same map that was at the Planning Board and in the Reexamination report and that it was a smaller copy for the ease of including in the Mayor and Council packets. Mr. Hall said there were also electronic versions of the map available to the public by request and again noted that he didn't see any legal impediment to moving on the ordinance and said there could be consequences if they didn't. Mr. Fitzpatrick responded that he was not provided a copy at the Zoning Office and felt that it should have been available. Councilwoman Horgan asked if he was denied access to the map. Mr. Fitzpatrick said he was denied and that he was told that they did not have it there and he would have to go to the Borough Clerk's Office which he assumed would be the same scale map that was distributed with the ordinance.

He was repeatedly asked if he had gone to the Borough Clerk's Office. Mr. Fitzpatrick said he didn't see what the rush was. Councilwoman Lee said she didn't think it was rushed and noted that it had gone back to the Planning Board twice. Councilman Murphy noted that he knew Mr. Fitzpatrick was aware of how to get information and again noted that the Planning Board and Council had been going back and forth with the matter over the last six months. Administrator Sickels reviewed the approval process that was followed including a challenge from COAH. He said they had been able to negotiate a settlement with COAH and needed to close the litigation and move forward. Mr. Fitzpatrick said the map that began the process was from December of last year and a map was presented in September of this year. He also noted that the Planning Board meeting where the map was approved was September 21. Mr. Sickels said the meeting was to approve wording in the Ordinance and that there was no other change. Councilman Zipprich noted that the Master Plan review had begun in 2008. Mr. Fitzpatrick said the map that was prepared in September of 2008 differs from the map available at this meeting. Mr. Sickels said that it was a date change only because there was a resubmission of the ordinance to COAH with the map and the date on it was changed to the current date.

Mr. Hall asked Mr. Fitzpatrick again if he had gone to the Clerk's Office for a larger version of the map. Mr. Fitzpatrick said he had not, that he had gone to the Zoning Officer. Mr. Hall said he understood that, but noted that Mr. Fitzpatrick had said he was referred to the Borough Clerk and asked if he had gone there and asked for a larger version of the map. He said he had not. Mr. Hall asked if Mr. Fitzpatrick had asked the Borough Engineer for a larger version of the map. Mr. Fitzpatrick said the Borough Engineer was not in the building at the time. Mr. Hall asked if he had called to ask the Engineer for a larger version of the map. Mr. Fitzpatrick said he felt when an ordinance is presented and there is a map that is attached to it, it should be clearly defined and discernable. He said the Council is responding that the map is sufficient and he wanted to place his objection on the record that the map was not clear, not concise and did not define property lines.

Dan Mancuso—95 East Bergen Place, Planning Board member—said he wanted to respond to Mr. Meyer's comments. He said the Master Plan Review, the Planning Board meetings and the Council meetings over the last 18 months had dealt with the issue of these ordinances at least 12 times with public notice and several meetings. He said none of this is really new aside from the map change with COAH. All of the other ordinances have been going on for 18 months with lots of meetings and lot of public notice. He also noted, in regard to the density, that he wanted to remind everyone that they had lowered density in the downtown area both in size of buildings and in height. He reiterated that while they had increased density around the train station, they decreased it downtown and he said no one seems to mention that fact. Councilman DuPont asked what the purpose of the changes was. He said the change downtown was a direct result of public comment after the Metropolitan was built. He said the increased density in the area of the train station was to encourage renewing old and dilapidated properties in the area. Councilman DuPont noted that if people lived in that area, they could walk rather than drive to the train station. Mr. Mancuso agreed.

Administrator Sickels noted that he also sits on the Board and said in the majority other zones the height was reduced from 50 to 40 feet and that in the train station overlay it was reduced from an option of 60 feet to 50 feet. Mr. Mancuso agreed and noted that unoccupied open space was increased from 10 to 20 percent in the train station area as well. Councilman DuPont asked him to explain that. Mr. Mancuso said it would mean greater set backs not just from the street but from something like a tree or telephone pole to create more of a plaza area and to not allow the buildings to completely fill the space. Mr. Sickels noted that they also increased the minimum unoccupied space in the transit overlay zone. Mr. Mancuso felt some of that needed to get on the record because all they hear about are the increases. Councilman Zipprich asked if smart growth development was taken into consideration. Mr. Mancuso said it was.

Cindy Burnham—146 Harrison Avenue, Fair Haven—said she agreed with Senator Beck, Mr. Meyer and Ms. Senkeleski on the density issue and felt it would change the character of the town. She said she was concerned because they had included Maple Avenue in the development area. Mayor Menna said it was his understanding that it would be specifically excluded by State law as long as it was on the Recreational Open Space Inventory map even though it was inside a redevelopment area. Ms. Burnham said she also couldn't understand the map and had gone to the Zoning Office and had the same experience as Mr. Fitzpatrick. She said she didn't go to the Clerk's Office either because she figured she would have the same map. She said she didn't call Borough Engineer either. Councilwoman Lee asked Ms. Burnham if she had contacted them in the past. She acknowledged that she had.

Nancy Adams—RiverCenter Director—said she had been vocal about several ordinances, most of which she agreed with. She said planning practices for downtown revitalization and downtown redevelopment prove out to be exactly what the transit overlay ordinance proposes. She added that it promotes not only environmentally sound practices with the use of mass transit and fewer cars on the road, development around the train station in Red Bank would be a huge improvement to that area. She said, in regard to comments about changing the character, she noted that she felt the character of the area should be changed and improved. She said it was proven out across the state and across the state that downtown revitalization projects like mixed use residential near transit do just the opposite and offered to compile statistics and cited examples. She said the residents are most often empty nesters and baby boomers that want to stay in an active community but still be within walking distance of entertainment. She said they usually have one car and no kids. She noted that RiverCenter is in support of the transit overlay ordinance in particular.

Bill Meyer—12 Monmouth Street—said Mr. Hall indicated that there were some bad consequences occurring if the Council did not vote tonight and asked what those consequences were. Mayor Menna said he believed he was referring to the Scarce Resource Order which was still in place and affects a lot of, even single family or two family, property owners and keeps them from getting approvals without requesting a waiver from COAH. Mr. Hall said that was correct and noted that the town had been given an extension to get in their third round plan, but had specifically exempted this ordinance. He said he didn't know what COAH would do, but they could make the Borough life miserable and cited some examples.

Councilman Zipprich asked what the order could do to a home owner. Mr. Hall said, under the Scarce Resource Order, a home owner would have to go through a complex process of petitioning COAH for an exemption taking a lot of time and money for relatively minor development applications. He said essentially, under the order, the Borough had lost control of its own Zoning Ordinances and that was not a good thing. Mr. Zipprich noted that a home owner that wanted to do a modification to their existing home would have to put their hand in their pocket that much more. Mayor Menna noted that that situation existed now and had existed since the beginning of the year. Mr. Meyer said it didn't appear that there was anything eminent that they couldn't take a little bit of time. Mr. Hall said it was an intolerable situation and there was the possibility that the Borough could lose its substantive certification which would open the Borough to builders' remedies and that was something that would be a disaster. Mr. Meyer said he agreed and asked if there were any bills in the future that would alleviate some of these Draconian regulations from COAH. Mayor Menna said there were hundreds of bills out there under consideration by the legislature but, until the law is changed, they were bound by the existing law. He also criticized the map that was available.

Kim Senkeleski—49 John Street—noted that she had brought the issue up at the last Council meeting and asked again if the addition of possibly hundreds of people in the train station area would increase the number of trains. She seems that this development would require them to augment their service. Mayor Menna said that was absolutely incorrect and said NJTransit would see this as something that would minimally affect their service because it is only a few blocks. He noted that the term transit village had been used by a number of people and this was a transit overlay not a transit village and explained the difference. He said the increase of density from 25 to 35 units per acres was not considered a demonstrative difference. He felt that, if the price was right, the purchasers would be existing Red Bank residents. He said NJTransit would consider it much too small to invest in. Ms. Senkeleski said she felt it was a stepping stone and could grow. Mayor Menna said it would only grow if they allowed it to and noted that they had reduced density in other areas. He also noted that expansion was difficult because, due to the fact that they had passed an ordinance forbidding eminent domain, and it would be difficult to amass the necessary properties. Ms. Senkeleski said she wanted to reiterate that she had gone door to door and discussed this issue and had not heard one person in favor of it.

Mayor Menna asked if anyone else would like to speak, no one appearing, Councilman DuPont offered a motion to close the public comment portion, 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.

ORDINANCES – First Reading

2009-33 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 25-10.12, “REGULATIONS CONTROLLING CENTRAL COMMERCIAL DISTRICT-2.”

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

ROLL CALL:

AYES: Zipprich, DuPont, Horgan, Lee, Murphy

NAYS: None

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

Public hearing and final adoption scheduled for October 12, 2009.

2009-37 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 25-10.14, “REGULATIONS CONTROLLING BUSINESS RESIDENTIAL-1 DISTRICT.”

Councilman DuPont offered a motion to adopt the ordinance on first 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 first reading.

Public hearing and final adoption scheduled for October 12, 2009.

2009-50 Mayor Menna read “AN ORDINANCE OF THE BOROUGH OF RED BANK, AUTHORIZING AN AGREEMENT TO PROVIDE UNIFORM FIRE CODE SERVICES TO THE BOROUGH OF LITTLE SILVER PURSUANT TO THE INTERLOCAL SERVICES ACT.”

Councilman Murphy offered a motion to adopt the ordinance on first 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 first reading.

Public hearing and final adoption scheduled for October 12, 2009.

ORDINANCES – Public Hearing & Final Adoption

2009-30 Mayor Menna read “AN ORDINANCE OF THE BOROUGH OF RED BANK, COUNTY OF MONMOUTH, NEW JERSEY AMENDING AND SUPPLEMENTING CHAPTER XXV, PLANNING AND DEVELOPMENT REGULATIONS, SECTION 25-2.3, “DEFINITIONS” AND SECTION 25-8.21(o), “OFF STREET PARKING, MINIMUM OFF STREET PARKING SPACES REQUIRED.”

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

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

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 ordinances 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 ordinances were declared adopted.

2009-32 Mayor Menna read “AN ORDINANCE OF THE BOROUGH OF RED BANK, COUNTY OF MONMOUTH, NEW JERSEY AMENDING AND SUPPLEMENTING CHAPTER XXV, PLANNING AND DEVELOPMENT REGULATIONS SECTION 25-10.11, “REGULATIONS CONTROLLING CENTRAL COMMERCIAL DISTRICT-1.”

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

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

ROLL CALL:

AYES: Zipprich, DuPont, Horgan, Lee, Murphy

NAYS: None

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

Councilwoman Lee offered a motion to adopt the ordinances 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 ordinances were declared adopted.

2009-38 Mayor Menna read “AN ORDINANCE OF THE BOROUGH OF RED BANK, COUNTY OF MONMOUTH, NEW JERSEY AMENDING AND SUPPLEMENTING CHAPTER XXV, PLANNING AND DEVELOPMENT REGULATIONS SECTION 25-10.19, “REGULATIONS CONTROLLING BUSINESS RESIDENTIAL-2 DISTRICT.”

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

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

ROLL CALL:

AYES: 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 ordinances 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 ordinances were declared adopted.

2009-39 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" SECTION 10.22, "REGULATIONS CONTROLLING THE TRAIN STATION OVERLAY DISTRICT."

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

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

ROLL CALL:

AYES: Zipprich, DuPont, Horgan, Lee, Murphy

NAYS: None

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

Councilman Murphy offered a motion to adopt the ordinances 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 ordinances were declared adopted.

2009-40 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 25-8.37, "GARAGES (INCLUDING VERTICAL PARKING GARAGES)" SECTION 25-9.13, "COMMERCIAL PARKING FACILITIES."

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

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

ROLL CALL:

AYES: Zipprich, DuPont, Horgan, Lee, Murphy

NAYS: None

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

Councilwoman Lee offered a motion to adopt the ordinances 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 ordinances were declared adopted.

2009-46 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 25-10.12, “DESCRIPTION OF DISTRICTS” AND SECTION 10-21, “REGULATIONS CONTROLLING AFFORDABLE HOUSING OVERLAY DISTRICT ONE (AH-1 ZONE).”

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

Steve Fitzpatrick—92 Hudson Avenue—said, notwithstanding the issue he raised earlier, he asked the Mayor and Council if they could explain the intent of the establishment of the affordable housing overlay zones. Attorney Hall said it would establish a 20 percent set aside for affordable housing in any building with five or more residential units. Mayor Menna said it was in accordance with State law. Attorney Hall explained that history of the requirement. Mr. Fitzpatrick asked if the entire Borough could have been included. Mr. Hall acknowledged that it could. Mr. Fitzpatrick asked why this area was chosen. Mr. Hall said it was because it was identified in the 1995 Master Plan as areas where residential redevelopment was expected to occur and that was COAH’s condition. Mayor Menna also noted density in some of the Borough’s areas area higher than they were in any other zone because they were built in the 1950s and 60s. If one of those buildings were to be destroyed, he continued, someone could conceivably come in and make the case to recreate something with the same density.

Mr. Fitzpatrick said that since the Council was establishing what those zones were, he was making the presumption that they would come back with an ordinance, similar to the one for the transit overlay, that would be for regulations governing the affordable housing overlay zone. Mr. Hall said that was not correct that they were only providing for the 20 percent set aside. Mr. Sickels said it just identifies the zones where the set aside occurs. Mr. Fitzpatrick asked if the underlying zones, for development purposes, would still apply. Mr. Hall confirmed that was the case. Mr. Fitzpatrick asked for clarification if the overlay zone was only speaking to the 20 percent requirement. Mr. Hall confirmed that that was the case. Mr. Fitzpatrick asked again if there would be another ordinance to that regard. Mr. Hall reminded him that this was an overlay zone, so the preexisting conditions underneath it still remain in full force. Mr. Fitzpatrick said that was why it was important to have a map the is very clear.

Engineer Ballard said she wanted to make clear that throughout the Borough there is already an affordable housing requirement and set aside which is 11 percent. She said this ordinance was a result of negotiations with Fair Share and COAH requiring them to raise it to 20 percent. Councilman Zipprich confirmed that it would be raised from 11 percent to 20 in the designated zones.

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

ROLL CALL:

AYES: Zipprich, DuPont, Horgan, Lee, Murphy

NAYS: None

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

Councilman Murphy offered a motion to adopt the ordinances 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 ordinances were declared adopted.

2009-47 Mayor Menna read “AN ORDINANCE AMENDING CHAPTER VII, “TRAFFIC,” SUBSECTION 7-7, “LOADING ZONES AND DROP OFF ZONES” OF THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF RED BANK.”

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

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

ROLL CALL:

AYES: 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 ordinances on final reading, seconded by Councilwoman Horgan.

ROLL CALL:

AYES: Zipprich, DuPont, Horgan, Lee, Murphy

NAYS: None

There being five ayes and no nays, the ordinances were declared adopted.

2009-48 Mayor Menna read “AN ORDINANCE OF THE BOROUGH OF RED BANK, COUNTY OF MONMOUTH, NEW JERSEY AMENDING AND SUPPLEMENTING THE CHAPTER VII, “TRAFFIC,” SECTION 7-3.6, “PARKING TIME LIMITED ON CERTAIN STREETS,” SCHEDULE IV, “TIME LIMITED PARKING.”

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

Attorney Hall explained that this ordinance was required under the terms of the Court’s order under the Residential Parking lawsuit. He said the Borough had to conduct a review of its parking ordinance and make sure that they were consistent with the signs that were in place on the streets. He said they found an anomaly with respect to the streets in this ordinance. He said, in order to correct the discrepancy, this ordinance would create a 15 minute parking zone on Branch and South streets.

Councilwoman Horgan had a question about the wording of the ordinance referencing to Branch Avenue which Mayor Menna clarified.

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

ROLL CALL:

AYES: Zipprich, DuPont, Horgan, Lee, Murphy

NAYS: None

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

Councilman Murphy offered a motion to adopt the ordinances 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 ordinances were declared adopted.

RESOLUTIONS

09-226 Mayor Menna read “A RESOLUTION AUTHORIZING AN OPEN PUBLIC RECORDS – RECORDS INFORMATION MANGEMENT SHARED SERVICES AGREEMENT WITH THE COUNTY OF MONMOUTH.”

Councilman Zipprich asked if this was for the entire Borough or individual departments. Deputy Clerk Borghi explained that it was an ongoing program that the Borough had joined a couple of years ago and it would be for all departments of the Borough. She said it was for records imaging services through an agreement with Monmouth County. Mayor Menna noted that it was under a PARIS grant. Administrator Sickels noted that the program was starting in the Clerk’s office and would later move out to other departments. Councilman Zipprich asked if it would include a disaster recovery back up plan. Ms. Borghi noted that any records that were imaged would be stored on a server at the County.

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

ROLL CALL:

AYES: Zipprich, DuPont, Horgan, Lee, Murphy

NAYS: None

There being five ayes and no nays, the ordinances were declared adopted.

09-227 Mayor Menna read “A RESOLUTION AUTHORIZING RELEASE OF PERFORMANCE GUARANTEES AND ACCEPTING A MAINTENANCE GUARANTEE REGARDING FOOD CIRCUS SUPER MARKETS, INC., 15 WIKOFF PLACE, BLOCK 98, LOT 10.02 AND BLOCK 99, LOTS 26, 27 AND 28.”

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

ROLL CALL:

AYES: Zipprich, DuPont, Horgan, Lee, Murphy

NAYS: None

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

09-228 Mayor Menna read “A RESOLUTION AUTHORIZING EXTENSION OF LIQUOR LICENSE TO RECEIVER FOR PLENARY RETAIL CONSUMPTION LICENSE NO. 1340-33-015-007.”

Mayor Menna noted that this was for Ashes Cigar Club.

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

ROLL CALL:

AYES: Zipprich, DuPont, Horgan, Lee, Murphy

NAYS: None

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

09-229 Mayor Menna read “RESOLUTION URGING ELIMINATION OF STATE-IMPOSED UNFUNDED MANDATES.”

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

ROLL CALL:

AYES: Zipprich, DuPont, Horgan, Lee, Murphy

NAYS: None

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

09-230 Mayor Menna read “RESOLUTION ENDORSING THE “GREEN ACRES, WATER SUPPLY AND FLOODPLAIN PROTECTION, AND FARMLAND AND HISTORIC PRESERVATION BOND ACT OF 2009.”

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

ROLL CALL:

AYES: Zipprich, DuPont, Horgan, Lee, Murphy

NAYS: None

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

09-231 Mayor Menna read “RESOLUTION AWARDING PURCHASE UNDER STATE CONTRACT.”

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

ROLL CALL:

AYES: Zipprich, DuPont, Horgan, Lee, Murphy

NAYS: None

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

09-232 Mayor Menna read “RESOLUTION AUTHORIZING CREATION OF CHANGE FUNDS.”

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

ROLL CALL:

AYES: Zipprich, DuPont, Horgan, Lee, Murphy

NAYS: None

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

PROCLAMATIONS

Mayor Menna read a proclamation proclaiming October 4-10, 2009 as Fire Prevention Week.

PAYMENT OF VOUCHERS

09-233 Mayor Menna read “A RESOLUTION FOR PAYMENT OF BILLS AMOUNTING TO \$1,415,969.03.”

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

ROLL CALL:

AYES: Zipprich, DuPont, Horgan, Lee, Murphy

NAYS: None

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

OLD BUSINESS

NEW BUSINESS

Councilwoman Lee said she wanted to note, on behalf of Councilwoman Lewis, that as they look to upgrade recreation areas in the town, they looked forward to the demolition of the Sunset Avenue incinerator which should be down in the next two to three weeks.

Mayor Menna said he wanted to note that there are several State programs that are very beneficial to municipalities and said without the help of the DEP, the DCA, the Legislators’ offices and the Governor’s Office, the Borough would not be the recipient of funds to do this project. He added that it is unusual in this day and age for a town to be able to reclaim a property and put it to good use for the residents. Local

towns, he continued, were not in a position to pay for that and said it was a good example of how Red Bank has benefited from the bond ordinances from the State.

Administrator Sickels noted that the Fire Department would be hosting a Fire Prevention Expo and barbecue on Sunday, October 11 from 11 am to 3 pm in the White Street parking lot.

AUDIENCE

No one appeared.

EXECUTIVE SESSION

None

ADJOURNMENT

Councilman Murphy offered a motion, seconded by Councilman Zipprich, 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