

**MINUTES
REGULAR MEETING
MUNICIPAL COUNCIL – BOROUGH OF RED BANK
DECEMBER 22, 2009
6:30 P.M.**

PLEDGE OF ALLEGIANCE

ROLL CALL

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

ALSO PRESENT: Administrator Sickels, Deputy Borough Clerk Borghi, Assistant Attorney Hall and Engineer Ballard.

ABSENT: Council Members Zipprich and DuPont, Attorney Pringle, Engineer Kosenski, Chief Financial Officer Mason and Auditor Kaplan.

SUNSHINE STATEMENT

Mayor Menna requested the minutes reflect that, in compliance with Public Law 1975, Chapter 231 (Open Public Meetings Act), notice of this meeting has been provided by notifying the Asbury Park Press, the Courier, the Two River Times and the Star Ledger and by placing a notice on the bulletin board and filing same with the Borough Clerk on September 8, 2009.

Mayor Menna said he wanted to announce that Jim Erving had passed away and noted that he was a member of the Borough Zoning Board, Planning Board, Rent Leveling Board and a member of the Red Bank Volunteer Fire Department. He said he had expressed his sympathy to the family on behalf of the Borough.

SUSPEND REGULAR ORDER OF BUSINESS

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

ROLL CALL:

AYES: Lewis, Horgan, Lee, Murphy

NAYS: None

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

Announcement of Home Decorating Contest Winners & Presentation of Prizes

Mayor Menna noted that this was the second year of the contest and thanked David Prown and SuperFoodtown for their generosity in donating prizes. He said a volunteer group had served as judges. Third Place went to George and Dianna Lauterwasser of East Westside Avenue, Second Place went to Marion Phillips of Reckless Place and First Place went to Kim Woods of Harding Road. Mayor Menna noted that the winners represented all sections of the town.

RESUME REGULAR ORDER OF BUSINESS

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

ROLL CALL:

AYES: Lewis, Horgan, Lee, Murphy

NAYS: None

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

WORKSHOP

No workshop items.

APPROVAL OF MINUTES – December 8, 2009

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

ROLL CALL:

AYES: Lewis, Horgan, Lee, Murphy

NAYS: None

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

MAYORAL APPOINTMENTS

REPORTS OF MAYOR AND COUNCIL MEMBERS

Councilman Murphy reported that the swearing in will take place on January 3, 2010 at 11 am. He noted that the 2010 Fire Chiefs will be sworn in at that time. He also reported that the 2009 testimonial dinner for Joseph Forgione will be held on Saturday, January 30, 2010, at the Oyster Point Hotel. He said tickets could be purchased from Frank Woods. Councilman Murphy also reported that the town had received about 16 inches of snowfall over the weekend and commended the Public Works Department on a great job.

Councilwoman Lee also commended the Public Work Department and noted that the snow storm had followed a sewer line break on Monmouth Street the previous week. She also reported that the library will offer free English as a Second Language classes in January. She said they will also have Acoustic Saturdays starting December 30th and Artist Workshops on the first Thursday of each month.

Councilwoman Horgan said the Councilman Zipprich had asked her to make a report in his absence and said that the Red Bank Train Station was going to be restored which she said she felt was excellent news. She added that a meeting was held on December 20th between NJTransit, the Mayor, a representative from Preservation Red Bank and members of Borough's Historic Preservation Commission. She said the improvements will be paid for by the NJTransit Capital Improvement Fund. She said extensive repairs will start in early 2010 including the replacement of windows and removing the gingerbread trim and replacing it to be historically accurate.

Councilwoman Lewis reported that the Parks and Recreation Committee had met on December 16 and items on the agenda included the Boys and Girls Club, Maple Cove and Count Basie Field. She said she was happy to announce that, at today's Freeholders meeting, Red Bank received a \$250,000 in a full funding open space grant for improvements to Count Basie Field.

Mayor Menna said he wanted to express his appreciation to Councilwoman Lewis, the Parks and Recreation Committee, Administrator Sickels and Christine Ballard of T&M Associates for their efforts in securing the grant. He said he believed the Freeholders were receptive to putting monies where the people are and noted the heavy usage received by Count Basie Field calling it a place where the common people meet. He added that the Borough will be partnering with Red Bank Catholic and the State to get moving on the project. He said they will start working on the RFPs and construction details for the improvements to the field.

Mayor Menna said he was also grateful for the Historic Preservation Commission's involvement in the Red Bank Train Station and said the meeting with NJTransit was very productive. He said, as a result of that meeting, the train station will be revitalized and restored. He added that it was also important to note that RiverCenter was a full fledged participant through their Westside expansion. There was another meeting that followed, he continued, with merchants and cultural institutions on the Westside to see how the Borough can co-partner with NJTransit's improvements to ensure that the Monmouth Street corridor and the train station area become fully integrated in the cultural life, streetscape improvements and vitality. He noted that, as a first step, RiverCenter provided accoutrements and improvements to many store fronts during the holiday season. He said he was happy to see the cooperation between the cultural community and the retail community working with NJTransit. He said the commitment by NJTransit is real and noted that the specs would go out in the spring. He added that he thought it was something the New Jersey Historic Preservation Commission, the Red Bank Historic Preservation Commission and Preservation Red Bank would be proud of. He added that they have retained the services of a world-class historic preservation architect who is on staff at NJ Transit.

COMMUNICATIONS AND PETITIONS

Mayor Menna read a request from the Sandy Hookers Tri Club for use of Marine Park on Saturday, October 2, 2010 and Sunday, October 3, 2010 to hold a triathlon, pending approval of the Special Events Committee.

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

ROLL CALL:

AYES: Lewis, Horgan, Lee, Murphy

NAYS: None

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

Mayor Menna read requests from Michael Liffner for membership to Relief Engine Company, Taylor Doremus for membership to Independent Engine Company and Frank Gadot for membership to Navesink Hook & Ladder Company of the Red Bank Volunteer Fire Department.

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

ROLL CALL:

AYES: Lewis, Horgan, Lee, Murphy

NAYS: None

There being four 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.

Kim Senkeleski—49 John Street—said she wanted to speak on Ordinance 2009-54 regarding fixing compensation. She asked if it was increasing or decreasing salaries. Mayor Menna said it was not a salary increase for everyone noting that some positions received no increase whatsoever. He said most received an increase that equated to one and a half percent. He noted that while the ordinance said three percent, it was retroactive only to July 1. He stressed that it does not apply to all employees and gave examples of positions that would not see an increase. Ms. Senkeleski asked if a merit system was used. Mayor Menna said evaluations were done for the first time in the Borough's history and were completed in 2008. He said they were reviewed by members of the Council and, in some cases, were used to take certain actions. He said the 2008 valuations were the only proper evaluations for this particular ordinance because the compensation packages are for work done by employees who are not part of a bargaining unit and are for this calendar year. He said this should have been done around July 1st but due to financial difficulties and uncertainties, they were unable to strike an agreement with non-union employees such as was done with members of the PBA and the Communication Workers Union. He noted that evaluations were completed for 2009 and will be considered in the first trimester of 2010, hopefully before the end of March for increases or decreases for those still employed by the Borough. In summary, he said, they should have addressed this a long time ago.

Ms. Senkeleski said she had no objection adding that she felt everyone was entitled to a raise. Mayor Menna noted that not everyone got a raise adding that it wasn't just part time positions but gave the example of the Clerk position which had not been filled so had not seen an increase. Ms. Senkeleski asked if the position would be filled. Mr. Sickels said they had received applications and the Personnel Committee would be reviewing them in the next couple of weeks.

Ms. Senkeleski said she had an idea and had gotten positive feedback from other people in town which was to hold a tax payer summit to allow an open forum for people to provide constructive ideas for cost saving measures in town so that routine increases would balance out and the taxpayer wouldn't constantly see an increase. Mayor Menna said he didn't want to be flippant about her suggestion but noted that she had made suggestions at public meetings that had been considered by Council and itemized some of those suggestions including getting quotes for insurance. He explained that after that process it turned out our original provider had the best price with a \$200,000. But it showed, he continued, that they just don't do things because they have always done it but that they listen to suggestions. He also noted that some positions filled for the coming year with new individuals may be filled at a lower salary.

Ms. Senkeleski said her suggestion was to organize the summit and she offered to organize it. She said she felt many people in town had good ideas and thought it would be a good idea to have an open forum to discuss them. Mayor Menna said everyone was welcome to look at the books and the Council would be happy to consider suggestions. Ms. Senkeleski asked if she would have the Mayor and Council's support to organize a tax payer summit. Mayor Menna said he didn't know what that would entail. She said it would be similar to the economic summit that was held for the downtown businesses. Mr. Sickels noted that the Borough does hold a budget meeting that they work very hard to prepare for. He added that it is a public meeting and they have a power point presentation. Ms. Senkeleski said she was aware of that meeting and had attended it but said she was suggesting a forum before the 2010 draft.

Mayor Menna said if her suggestion was to have an open forum where people could have input prior to the budget, he said he did not think it was a bad idea and he would welcome it but thought it could be done on the committee level so there would be no violation of the open public meetings act. She said she would be happy to spearhead it and that she would consolidate the ideas. She asked if her point of contact should be Councilman DuPont. Mayor Menna said, since Councilman DuPont wasn't in attendance, he didn't want to volunteer him. She said she would contact the Mayor and Councilman DuPont by email.

Steven Hecht—135 Branch Avenue—said he had appeared before the Council several times to express concerns about tax appeals. He said he felt Attorney Hall, Mayor Menna and Councilmembers had always responded thoughtfully. He added that he had left those encounters with the idea that the Council had felt there was a minimal impact on the town. He said the Mayor was quoted in the Asbury Park Press on December 12 as saying that the municipality is suffering a hit from tax appeals. He asked the Mayor to expand on his thoughts on the subject and asked what the Mayor and Council was planning to do. Mayor Menna said what he was expressing was no different than what 563 other chief executives in the State were experiencing which was frustration with the way the State taxing system works. He noted that he would be in court the next day as a tax attorney and that there would be 30 or 40 others that would also be there. He said some will be defending municipalities on tax appeals and others would be representing individual clients. He said the tax appeal system is a complicated system and because the real estate market has taken a slide, property owners have filed tax appeals which, he acknowledged, was their right to do. He said the appeals end up in the court system and it comes down to what is said by the experts. He added that, while he couldn't discuss the specifics of any particular appeal, it was a question of valuation. He said some real estate valuations have gone down since the assessments were made. Therefore, he continued, adjustments are made by the court or made by the parties.

Mr. Hecht said he would again question the reliability of the assessments that are made by our assessor. He said he has asked several times about what percentage of appeals are settled in favor of the appellate and said he hasn't been able to get an answer. Mayor Menna said it was a difficult question because a lot of appeals that are filed are voluntarily dismissed. The difference between those that are litigated and those that are filed is a different statistical analysis, he explained. Mr. Hecht said he felt Mr. Elias' assessments were not reliable enough for the town to stand behind in litigation. Mayor Menna said he would have to defend our assessor because Red Bank has over 5,400 tax line items that he has to gauge. He said if there were 100 appeals out of 5,400 that meant he was not doing a bad job.

Administrator Sickels noted that the assessments that were done were from almost two years before and when the matter goes to tax court, more than the assessor's information is considered but also opinions of experts on both sides. He also noted that any settlement is agreeable to both parties. He said it is tough to say that work done by the assessor two years ago is defective when you are dealing with appraisals that were done last year because they are different due to the fact that the market has changed. He added that the borough doesn't settle unless it looks favorable given the facts. Mr. Hecht asked Mr. Sickels if the resolutions reflect the stipulated settlement figure that was agreed upon by both parties. Mr. Sickels confirmed that it did. Mayor Menna said he would be happy to discuss any of the ones that have been settled with Mr. Hecht. Mr. Hecht said he wasn't interested in individual properties but in what the town could do and questioned the settlements which he called voluntary. Attorney Hall asked Mr. Hecht to look at reasons why the town settled. Mr. Hecht said when he questions the decisions to settle he is not implying that they should litigate everything. He asked again what the town plans to do about the problem. The Mayor again noted that there is a lot of ways to look at the statistical data. He said a lot of appeals are filed that are not litigated. He said there are a lot of commercial appeals that were filed as a direct appeal with the tax court in Trenton because the Statute says if it is over a certain amount of money it is filed directly with the State.

William Poku—90 Bank Street—discussed when he won his tax appeal and said he had come to the Council to say they would be hearing from more people. He said the main issue was what the town was going to do and said one of the biggest problems was the validity of the assessments. He said it was his understanding that the tax assessor had worked with Realty Appraisal Company. He said he had threatened to sue the company over an assessment he felt was wrong. He said he wanted to see the computer programs and algorithms that were used. He said they told him they did what Mr. Elias told them to do and said he felt that was a conflict of interest. He said he felt the next time an assessment was done that bids should be taken from other appraisal companies. Mayor Menna said the Borough does put

it out to bid but noted that it is not a perfect system. He noted that because of the amount of work involved, you can count on one hand the number of appraisal companies that are equipped to do the line items that are required in a municipal revaluation. He added that while they do go out to public bid, those bids do not result in too much competition. Mr. Poku said Mr. Elias should not be paid by Realty Appraisal Company. Mayor Menna said he was not and went on to explain that the position of assessor for Red Bank, by law, is an employee of the Monmouth County Tax Board. He added that, while Red Bank pays him, he is directly responsible to the tax board.

Mr. Poku said a long time ago Red Bank was a place of affordable housing but that the stock was discovered by prospectors. He urged the Council not to let Red Bank turn into a place that only the rich could afford. He said if people want to invest in houses but not live here, they should shoulder the tax burden.

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

ROLL CALL:

AYES: Lewis, Horgan, Lee, Murphy

NAYS: None

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

ORDINANCES – First Reading

ORDINANCES – Public Hearing & Final Adoption

2009-54 Mayor Menna read “AN ORDINANCE FIXING COMPENSATION OF CERTAIN OFFICES, POSITIONS AND EMPLOYEES OF THE BOROUGH OF RED BANK FOR THE YEAR 2009.”

Mayor Menna noted that this was compensation for work done in 2009 and was retroactive only to July 1.

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 Councilwoman Horgan.

ROLL CALL:

AYES: Lewis, Horgan, Lee, Murphy

NAYS: None

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

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

Councilwoman Lee asked if a revised version had been received because she believed there had been some typos. Mr. Sickels said he believed the version before the Council was the revised version. She said she believed there had been a mathematical error on the tax collector salary. Mr. Sickels explained that the tax collector salary was by interlocal agreement with Fair Haven and reflected a greater percentage than three as per that agreement. Councilwoman Lee asked that that be made clearer in the future. Mr. Sickels said he believed it was on the initial ordinance but not on the final version.

Mayor Menna said this was for work done by diligent, hard working employees and noted that it didn't cover that many employees. He noted that the individuals covered don't get overtime, put in extra hours or work weekends if needed. He added that the individuals have shown a tremendous amount of devotion this year to making the Borough function with a lot less. He urged the Council to review the subject of prospective contracts with all of the employees in the coming year as early as January. He said he felt they owed it to the employees to move forward with this and to come up with a pattern to deal with this in the beginning of the year rather than the end of the year when the work has been done calling it the only fair thing to do.

ROLL CALL:

AYES: Lewis, Horgan, Lee, Murphy

NAYS: None

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

2009-55 Mayor Menna read "AN ORDINANCE OF THE BOROUGH OF RED BANK, COUNTY OF MONMOUTH, NEW JERSEY AMENDING AND SUPPLEMENTING 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.

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

ROLL CALL:

AYES: Lewis, Horgan, Lee, Murphy

NAYS: None

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

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

ROLL CALL:

AYES: Lewis, Horgan, Lee, Murphy

NAYS: None

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

2009-56 Mayor Menna read "AN ORDINANCE OF THE BOROUGH OF RED BANK, COUNTY OF MONMOUTH, NEW JERSEY AMENDING AND SUPPLEMENTING THE POLICE REGULATIONS, CHAPTER III, SECTION 10.1, "DRUG-FREE ZONE MAP."

Mayor Menna noted that because there were new preschools, by State law the Council had to adopt new drug free zones around those places.

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 Councilwoman Lewis.

ROLL CALL:

AYES: Lewis, Horgan, Lee, Murphy

NAYS: None

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

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

ROLL CALL:

AYES: Lewis, Horgan, Lee, Murphy

NAYS: None

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

RESOLUTIONS

09-278 Mayor Menna read “A RESOLUTION REQUESTING SPECIAL ITEM OF REVENUE.”

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

ROLL CALL:

AYES: Lewis, Horgan, Lee, Murphy

NAYS: None

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

09-279 Mayor Menna read “A RESOLUTION AUTHORIZING CONTINUATION OF A FOUR DAY WORK WEEK FOR CERTAIN BOROUGH EMPLOYEES AND OFFICES.”

Mayor Menna said the Borough had had experience with the four day workweek for approximately six months. He said the data so far shows that the Borough could save \$15,000 per year but noted that it was incomplete data because the Borough hadn't gone through the winter yet which sees the heaviest utility usage. He said he was recommending the six month extension so they would have a full year of data. He said even \$15,000 was worth the savings because every penny counts.

Councilman Murphy agreed that they should continue through a full year to see what the overall total is on the savings.

Councilwoman Lee said she would also be in favor of the continuation but would like to see a satisfaction survey by the employees.

Councilwoman Horgan agreed that she thought it should be continued for another six months.

Mayor Menna noted that they would also be moving forward with energy savings initiatives.

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

ROLL CALL:

AYES: Lewis, Horgan, Lee, Murphy

NAYS: None

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

09-280 Mayor Menna read “A RESOLUTION AUTHORIZING CHANGE ORDER NO. 3 RELATED TO THE CONTRACT WITH A. MONTONE CONSTRUCTION FOR THE SPRING STREET REPAVING PROJECT, HARDING ROAD TO THE LITTLE SILVER BORDER.”

Engineer Ballard said this was just an adjusting of contract values. Mayor Menna noted that, while this resolution called for a \$2,000 increase, the next one called for a \$54,000 decrease.

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

ROLL CALL:

AYES: Lewis, Horgan, Lee, Murphy

NAYS: None

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

09-281 Mayor Menna read “A RESOLUTION AUTHORIZING CHANGE ORDER NO. 8 RELATED TO THE CONTRACT WITH A. MONTONE CONSTRUCTION FOR THE 2007/2008 ROAD PROGRAM.”

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

Mayor Menna noted that this was the resolution he referred to showing a \$54,000 reduction.

ROLL CALL:

AYES: Lewis, Horgan, Lee, Murphy

NAYS: None

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

09-282 Mayor Menna read “A REGARDING AUTHORIZING CHANGE ORDER NO. 2 RELATED TO THE CONTRACT WITH A. MONTONE CONSTRUCTION FOR THE SPRING STREET, PHASE II PROJECT.”

Mayor Menna said this change order called for a reduction of \$520.00

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

ROLL CALL:

AYES: Lewis, Horgan, Lee, Murphy

NAYS: None

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

09-283 Mayor Menna read “A RESOLUTION AUTHORIZING RELEASE OF DEVELOPER’S AGREEMENT WITH RIVER DEVELOPMENT, L.L.C./WALLACE STREET PARTNERS, L.L.C., FOR 25-27 WALLACE STREET, BLOCK 29, LOTS 24, 25, 25.01 & 26.”

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

ROLL CALL:

AYES: Lewis, Horgan, Lee, Murphy

NAYS: None

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

09-284 Mayor Menna read “A RESOLUTION TO CANCEL 2009 PARKING FUND APPROPRIATIONS.”

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

ROLL CALL:

AYES: Lewis, Horgan, Lee, Murphy

NAYS: None

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

09-285 Mayor Menna read “A RESOLUTION AUTHORIZING TRANSFER OF 2009 CURRENT FUND APPROPRIATIONS.”

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

ROLL CALL:

AYES: Lewis, Horgan, Lee, Murphy

NAYS: None

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

09-286 Mayor Menna read “A RESOLUTION REJECTING ALL BIDS FOR A CONTRACT RELATED TO THE NEW JERSEY LOCAL GOVERNMENT ENERGY AUDIT PROGRAM.”

Mayor Menna said all of the bids came in at unacceptable levels so they are going out to bid again.

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

ROLL CALL:

AYES: Lewis, Horgan, Lee, Murphy

NAYS: None

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

PROCLAMATIONS

PAYMENT OF VOUCHERS

09-287 Mayor Menna read “A RESOLUTION FOR PAYMENT OF BILLS AMOUNTING TO \$995,233.37.”

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

ROLL CALL:

AYES: Lewis, Horgan, Lee, Murphy

NAYS: None

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

OLD BUSINESS

NEW BUSINESS

AUDIENCE

Mary Gilligan—20 South Street—said she was here to commend Public Works and the Borough’s inspectors for helping a project at the Woman’s Club move quickly. She said everyone pitched in to help them get back up and running within a week.

William Poku—90 Bank Street—noted that he had appeared before the Council on November 23rd to report that he had sued the Appellate Division regarding a matter concerning monies and the Red Bank Charter School. He said the Borough Attorney had asked him to send the paperwork over for review. He noted that he had been under the impression that the case had been dismissed with prejudice but had been notified that there was a clerical error and he had received an amended order that stated it had been dismissed without prejudice. He said it now appears that he can sue the Appellate Division. He said the reason he was attending was to notify that it was dismissed without prejudice on the grounds that there was no jurisdiction for the Superior Court to rule on a matter against the Appellate Division. Mayor Menna said he understood the logic of the ruling. Mr. Poku said he had come to the meeting to give the Council notice that he was moving forward and that the Borough was a necessary party to the suit, whether as a defendant or plaintiff. He outlined his reasoning for his concerns about the money that was borrowed by the Charter School and the long terms effects.

Cindy Burnham—146 Harrison Avenue—said she was attending to thank the Mayor for standing by his commitment for benches and a sign at Maple Cove. She said she also wanted to thank the Parks and Recreation Committee for supporting the project and helping it go forward as well as the Council members that offered their support. She said she realized that the benches and sign wouldn’t be installed

over the winter. She said she had met with Administrator Sickels to discuss details and was hopeful that they would be in place in the spring.

Kim Senkeleski—49 John Street—said she had checked the Borough website at 4:30 and the resolutions for tonight's meeting were not posted. Administrator Sickels and Councilwoman Horgan explained that resolutions were put on the website upon adoption. Ms. Senkeleski asked how she was supposed to know what a resolution was about. Mayor Menna clarified that Ms. Senkeleski was saying that while she could see a resolution title on the agenda, she was unable to see the wording of the actual resolution. Ms. Senkeleski said she would like to see the resolutions 48 hours in advance. Mayor Menna said he agreed. Ms. Senkeleski asked for a resolution to state that they must be posted 48 hours in advance. Mayor Menna noted that that wasn't always possible and cited the resolutions regarding change orders that were on this agenda. He said they may have gotten final numbers a couple of hours before the meeting. He said there are other times when specific verbiage isn't available until the last minute.

Ms. Senkeleski said she noted that Ordinance 2009-54 had changed with an addition of the Clerk position. Mr. Sickels noted that those types of changes were part of the problem. He said the Education and Technology Committee had discussed the matter but hadn't shared their discussions with the rest of the Council yet. He point out that most towns do not put items online ahead of the Council taking action but rather after. He added that there have been problems with trying to get things done, getting the packets delivered to Council and subsequent phone calls from Council members asking for changes. He said there are often last minutes changes and taking time out to repost those changes would be time consuming and take time from other duties. He said the Committee had discussed the fact that there was no statutory requirement to have them available before Council people even had a chance to read and discuss them. Ms. Senkeleski said that would support her argument about setting a deadline.

Councilman Murphy noted that Ordinances are posted for introduction and there was time for consideration before the final adoption. Mr. Sickels said it could also add to advertising costs as they were sent to the paper at the same time they were sent to the website and last minutes changes were difficult for the newspapers. He said they had made the decision to post the agenda as a draft and noted that last minute changes are often made and the agenda isn't confirmed until right before the meeting. He added that the Statute only requires that the agenda must be available to the public at the meeting. Mayor Menna said they would try to use a common sense approach which was if the resolution was ready and the Council had it in advance, it would be posted on the website. If it was a last minute resolution, he continued, they would at least have the notification on the agenda. He said he agreed, if at all possible, it should be done but certain instances would find some done at the last minute.

Councilwoman Horgan reiterated that the Borough is now posting the agenda on Thursdays, in draft form. She said this was something that was asked for that the Borough has done. Ms. Senkeleski noted that the agenda has usually been up the day of the meeting. Councilwoman Horgan said she was saying that the Borough had accommodated the request to get it up earlier. Administrator Sickels noted that the Council was going to work to get drafts of resolutions posted because they were acted on a one meeting. He added that Ordinance weren't really an issue because they have an introduction and a public hearing two weeks later. Mr. Sickels said he believed the consensus was to put the resolutions on the website as drafts. He again noted that there were often multiple changes between the Thursday before the meeting and the meeting night. She said, from a resident's perspective, she looks at the information to see if she can make the time to attend the meeting and without the information people won't be able to give their input. She said it would behoove both parties to have the information. Mr. Sickels said he would take direction from the Council.

Fred Boynton—365 Shrewsbury Avenue—said he would like to speak to the Mayor, Administrator and Borough Attorney after the meeting.

Steven Hecht—135 Branch Avenue—said that the old website had easier access to Ordinances and Resolutions that did not require navigation to a different page. He said the old site had agendas with links embedded but the new site requires going to a different page. He said getting minutes was also difficult. He said in some ways the new site was not as user friendly but the information was there and he was able to print it—it just took a while.

Les Hathaway—44 Ambassador Drive—said he had noticed a lot of drivers using cell phones and noted the fines involved. He suggested stepping up enforcement as a revenue source. Mayor Menna noted that the Municipal Court was supposed to be neutral in terms of revenue and was supposed to do justice. He said such action would be illegal.

William Poku—90 Bank Street—offered some additional thoughts on the court system and questioned some of the procedures followed at the Municipal level.

Gary Morris—196 River Street—said he was actively involved with Parks and Recreation and with Director Evans. He said he wanted to voice his dismay. He acknowledged that he did not know the

Borough's side of the story. He said he felt Mr. Evans was a tremendous asset to the Borough and everyone he knows that worked with him thought he was a great guy. He said he raised a tremendous amount of money for the kids and questioned the decision to terminate. He said previous directors had not done the work that Mr. Evans did and again said he was a tremendous asset.

Mayor Menna said he appreciated Mr. Morris' comments but under Rice Notice requirements, he could not confirm or discuss such an issue.

EXECUTIVE SESSION

09-288 The Attorney read a resolution to adjourn to executive session to discuss personnel.

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

ROLL CALL:

AYES: Lewis, Horgan, Lee, Murphy

NAYS: None

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

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

ROLL CALL:

AYES: Lewis, Horgan, Lee, Murphy

NAYS: None

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

ADJOURNMENT

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

ROLL CALL:

AYES: Lewis, Horgan, Lee, Murphy

NAYS: None

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

Respectfully submitted,

Pamela Borghi