

**MINUTES
REGULAR MEETING
MUNICIPAL COUNCIL – BOROUGH OF RED BANK
DECEMBER 8, 2008
5:30 P.M.**

Council President Murphy opened the meeting while Mayor Menna performed two marriages.

PLEDGE OF ALLEGIANCE

ROLL CALL

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

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

ABSENT: Borough Clerk Vivona.

SUNSHINE STATEMENT

Council President Murphy 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, 2008.

WORKSHOP

MAYORAL APPOINTMENTS

REPORTS OF MAYOR AND COUNCIL MEMBERS

Councilman Murphy reported that over the weekend the Red Bank Volunteer Fire Department lost a member. He reported that Larry Brooks had passed away Sunday, December 7 noting that he was a member of the Navesink Hook & Ladder Fire Company since 1974 and attained the rank of Chief in 2006. He also gave information on the memorial services for Mr. Brooks.

Councilman Murphy also reported on an incident that took place at the Primary School the previous week. He said both he and Mayor Menna visited the site. He said he wanted to recognize a few individuals including Primary School Principal Richard Cohen, Guidance Counselor Carl Parker and Primary School Nurse Theresa Ullmann. He noted that all three put their lives on the line to disarm the assailant and assist the victim and commended their bravery and dedication to protect the children of Red Bank. He also praised the actions of the Borough Police Department and First Aid Squad.

Councilman Murphy also noted that there was a resolution on tonight's agenda regarding a \$5,000 grant that would go toward paying overtime for Police Officers working on the Driving While Impaired/Drunk Driving program. He also reported that the Fire Department had recently held its election for Chief for 2009 and the incoming officers are Joseph Forgione as Chief, Alan Soden, Jr. as First Deputy Chief and John Mego as Second Deputy Chief.

COMMUNICATIONS AND PETITIONS

Council President Murphy read a request from Sean Keane for Active Associate membership to Navesink Hook & Ladder Company of the Red Bank Volunteer Fire Department.

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

ROLL CALL:

AYES: Cangemi, Giannell, 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

Council President Murphy opened the public comment portion of the meeting and asked if anyone would like to speak, no one appearing he asked for a motion to close the public comment portion of the meeting.

Councilman DuPont offered a motion to close the public comment portion of the meeting, seconded by Councilwoman Lee.

ROLL CALL:

AYES: Cangemi, Giannell, DuPont, Horgan, Lee, Murphy

NAYS: None

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

ORDINANCES – First Reading

2008-27 Council President Murphy read “ORDINANCE OF THE BOROUGH OF RED BANK, COUNTY OF MONMOUTH, NEW JERSEY AMENDING AND SUPPLEMENTING CHAPTER IXX, “STREETS, SIDEWALKS AND SANITATION,” BY ADDING NEW SECTION 19-14, “RECYCLING OF PLASTIC CHECKOUT BAGS.”

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

Councilman Giannell noted that there were a number of items within the ordinance that he felt, based on testimony by experts that had appeared at earlier meetings, were inaccurate and he would like to see removed.

Councilwoman Cangemi agreed and noted specific changes including the phrase that “plastic bags are not readily recyclable” should be removed.

Councilman Giannell questioned the statement that the manufacture of plastic bags uses oil resources and suggested including wording to encourage the use of bioplastic. He also asked that the definition of store be made to include restaurants. He also asked that all fines and penalties be deposited into the general fund rather than a dedicated account for recycling programs as the ordinance currently reads. He said he would support the ordinance with those amendments.

Councilwoman Cangemi asked Chief Financial Officer Mason if, since the Environmental Commission currently has no budget, the budget would have to be expanded to provide for distribution of the funds as the ordinance currently reads.

Mr. Mason said no. He said it could be done if she was interested in that.

Councilwoman Cangemi said she was not in favor of expanding the budget.

Councilman Dupont said he had no problem with the proposed changes and asked the Borough Attorney if they were insubstantial enough to continue with the introduction.

Attorney Pringle said he felt the changes could be incorporated and the Council could move forward with introduction. He suggested they replace the word “oil” with the phrase “fossil fuel.”

ROLL CALL:

AYES: Cangemi, Giannell, 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 December 22, 2008.

2008-30 Council President Murphy read “ORDINANCE OF THE BOROUGH OF RED BANK, COUNTY OF MONMOUTH, NEW JERSEY AMENDING AND SUPPLEMENTING CHAPTER II, “ADMINISTRATION,” SECTION 2-22, “DIRECTOR OF PUBLIC UTILITIES,” SUBSECTION 2-22.1, “DIRECTOR OF PUBLIC UTILITIES, CREATED”; 2-22.8, “SUPERVISOR: APPOINTMENTS; EDUCATION AND EXPERIENCE”; 2-22.9, “DIVISIONS AND DIVISION SUPERVISORS’ DUTIES”; AND 2-22.10, “SUPERVISORS.”

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

ROLL CALL:

AYES: Cangemi, Giannell, 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 December 22, 2008.

Mayor Menna rejoined the meeting.

ORDINANCES – Public Hearing & Final Adoption

2008-28 Mayor Menna read “ORDINANCE OF THE BOROUGH OF RED BANK, COUNTY OF MONMOUTH, NEW JERSEY AMENDING AND SUPPLEMENTING CHAPTER XI(A), “LOW AND MODERATE INCOME HOUSING,” ESTABLISHING NEW SECTION 11A-11, “MANDATORY AFFORDABLE HOUSING FEES AND AN AFFORDABLE HOUSING TRUST FUND.”

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

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

ROLL CALL:

AYES: Cangemi, Giannell, DuPont, Horgan, Lee, Murphy

NAYS: None

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

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

ROLL CALL:

AYES: Cangemi, Giannell, DuPont, Horgan, Lee, Murphy

NAYS: None

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

2008-29 Mayor Menna read “ORDINANCE OF THE BOROUGH OF RED BANK, COUNTY OF MONMOUTH, NEW JERSEY AMENDING AND SUPPLEMENTING CHAPTER IX, “LICENSING OF TAXICABS,” SECTION 9-2.6, “NUMBER OF LICENSES,” SECTION 9-2.14, “LICENSE FEES,” AND SECTION 9-7, “FEES FOR CERTIFICATE OF COMPLIANCE.”

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

Gary Damanti, Yellow Cab, 101 Oakland Street, apologized for not attending the previous meeting when the ordinance was introduced adding that he had just become aware on Friday that it was up for final reading. He noted that he had asked a lot of drivers to attend to show their opposition to the increase in the number of licenses to be issued. He said the increase in the fee to license a car was not his main concern as it was a one time cost. He said the addition of ten licenses would be a problem because business has been very slow in the last year and there are so many cars on the road now that they would probably be able to do with ten less. He noted that he and other owners have invested in hybrid vehicles

and are looking to recoup on that investment. He said there are many times during the day that one will see ten to twelve cabs waiting at the train station for passengers, noting that that means they are looking for work.

Mayor Menna asked Mr. Damanti if he was saying that he felt there was not a need to increase the number of cabs because there was sufficient capacity to service the town's needs.

Mr. Damanti said that was correct, adding that there was more than enough. He said the drivers had questioned why the increase was suggested.

Councilman Murphy asked where the request for the additional ten vehicles had come from and asked Council Members if anyone had received any complaints of there being a shortage.

Administrator Sickels said it was a recommendation from the Borough Clerk and that he wasn't sure if she had had input from the Chief of Police.

Deputy Clerk Borghi reported that Borough Clerk Vivona has sent a report that she had received phone calls that there were not enough cabs that were local Red Bank cabs and that out of town cabs that come into Red Bank charge a higher rate. Ms. Borghi said Ms. Vivona had said that she understood that there was a need for more local cabs.

Councilman Murphy asked if in anyone in the audience was appearing because they thought there were not enough cabs in Red Bank. He also asked if anyone was opposed to what Mr. Damanti was saying.

Councilwoman Lee asked Mr. Damanti to clarify if he thought there were plenty of cabs in Red Bank.

Mr. Damanti said yes and that the problem with the out of town cabs is that they bring people into town from other areas such as Long Branch during rush hours and don't want to ride back empty so they will pick up a Red Bank call. He said the Red Bank based drivers count on those busy times to make their money but are losing some of the business to cabs that aren't licensed in the Borough.

Councilwoman Lee asked about the possibility that some of the out of town cabs have contracts to pick people up at the train station.

Mr. Damanti acknowledged that sometimes that is the case but they are usually aware of that. He noted that the biggest problem is with the bar rush when they bring people home and "mill around" looking for passengers. He said his drivers have approached the out of town drivers to remind them that they shouldn't be there.

Councilwoman Lee asked if there was a way we could support our licensed Red Bank drivers.

Mayor Menna noted that it is a question of enforcement.

Councilman Murphy said he didn't understand why there was a request for an additional ten cabs.

Councilman DuPont suggested that the Council deny the ordinance. He said if there was a valid reason beyond one phone call, then the Council could revisit the idea. He said he would make a motion to deny the ordinance.

Mayor Menna summarized by saying that the spokesman for the cab drivers had indicated that it was the desire of the majority, if not all, in attendance to have the Council not act on this ordinance. Mayor Menna asked if anyone present wanted the Council to act favorably on the ordinance. No one came forth.

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

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

ROLL CALL:

AYES: Cangemi, Giannell, DuPont, Horgan, Lee, Murphy

NAYS: None

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

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

ROLL CALL:

AYES: Cangemi, Giannell, DuPont, Horgan, Lee, Murphy

NAYS: None

There being six ayes and no nays, the ordinance was declared defeated on final reading.

RESOLUTIONS

08-242 Mayor Menna read “A RESOLUTION AUTHORIZING TRANSFER OF 2008 CURRENT FUND & WATER UTILITY APPROPRIATIONS.”

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

ROLL CALL:

AYES: Cangemi, Giannell, DuPont, Horgan, Lee, Murphy

NAYS: None

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

08-243 Mayor Menna read “A RESOLUTION AUTHORIZING THE MAYOR AND THE BOROUGH CLERK TO EXECUTE A CONTRACT WITH OFFICIAL PAYMENTS CORPORATION FOR ELECTRONIC TRANSACTION PROCESSING.”

Mayor Menna noted that this resolution was to allow for the ability for residents to pay by credit card for taxes and other matters.

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

Councilman Giannell asked if there was a cost to the Borough.

Mr. Mason said there was no cost to the Borough. He added that the convenience fee of 2.75 percent by credit card or \$3.00 by check if paid on line was passed onto the user.

Councilman DuPont noted that this was something that had been one of the Borough’s goals for this year.

Councilwoman Cangemi said she felt that this was important for convenience, but that she had grave concerns about people putting their property taxes on their credit cards.

Councilman DuPont noted that it can also be used for other fees such as court fees, etc.

Councilman Giannell asked if we would be entering into an annual contact to avoid any chance of increased fees six months down the road.

Mayor Menna confirmed that it was an annual contract. He also noted that many other towns are already doing this.

Councilwoman Lee asked if this would include water bills.

Mayor Menna said yes.

ROLL CALL:

AYES: Cangemi, Giannell, DuPont, Horgan, Lee, Murphy

NAYS: None

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

- 08-244 Mayor Menna read “A RESOLUTION AUTHORIZING CHANGE ORDERS RELATED TO THE CONTRACT WITH SANTORINI CONSTRUCTION FOR INSTALLATION OF A FIRE RECALL SYSTEM AT THE RED BANK PUBLIC LIBRARY.”

Mayor Menna asked Administrator Sickels to elaborate on the description of the resolution.

Mr. Sickels noted that as a result of the final inspection at the library, the State Department of Community Affairs Elevator Unit required a piece of equipment to be installed which recalls the elevator to the first floor. He added that the elevator at the library is a limited use/limited access elevator. He said although the State had done plan review and approved the issuing of the permit, they failed to address this during plan review and required it at the time of final inspection. He said this is the last change order and noted that the equipment had to be installed to get the final inspection. He said this will close out the project.

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

Councilwoman Cangemi asked if this was really the final change order, because the Council had been down this road before.

Mayor Menna and Mr. Sickels assured her this would close the project.

Councilwoman Lee noted that it was a large library and many things had appeared after the fact.

ROLL CALL:

AYES: Cangemi, Giannell, DuPont, Horgan, Lee, Murphy

NAYS: None

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

- 08-245 Mayor Menna read “A RESOLUTION AUTHORIZING CHANGE ORDER NO. 1 RELATED TO THE CONTRACT WITH A. MONTONE CONSTRUCTION FOR THE 2007/2008 ROAD PROGRAM – REPAVING PORTIONS OF BASSETT PLACE.”

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

ROLL CALL:

AYES: Cangemi, Giannell, DuPont, Horgan, Lee, Murphy

NAYS: None

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

- 08-246 Mayor Menna read “A RESOLUTION SUPPORTING THE *OVER THE LIMIT UNDER ARREST 2008 YEAREND CRACKDOWN*.”

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

ROLL CALL:

AYES: Cangemi, Giannell, DuPont, Horgan, Lee, Murphy

NAYS: None

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

- 08-247 Mayor Menna read “A RESOLUTION REQUESTING SPECIAL ITEM OF REVENUE.”

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

ROLL CALL:

AYES: Cangemi, Giannell, DuPont, Horgan, Lee, Murphy

NAYS: None

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

PROCLAMATIONS

Mayor Menna noted that there were no proclamations and apologized for starting the meeting late. He noted there had been a conference call with the State at 5:00 pm and that there had been two weddings that he performed out of the room so that the meeting could begin in a timely manner. He reported that he had attended an event Saturday night that most of the Council had also attended which was the NAACP Freedom Fund Dinner and said it was a wonderful celebration that included about 300 to 400 people. He noted Red Bank had celebrated its Centennial this year and that the NAACP had been a partner in this town and with this town for 99 of those 100 years. He noted that, on behalf of the residents, the Borough had received from the national and local chapter a wonderful acknowledgement of our Centennial in terms of our diversity and progress in human and civil rights for all people. He noted that next year the local Red Bank Chapter and National Organization of the NAACP will be celebrating its Centennial. He also reported that the NAACP had honored two of Red Bank's finest. He said Councilwoman Sharon Lee had received the Community Service Award and noted that she had been very gracious in her remarks thanking the people of Red Bank for allowing her to continue her Community Service. Mayor Menna said he was privileged to give the introductory remarks for the second individual which was Dr. Gene Cheslock, founder of the Parker Health Clinic and the former Chief of Medical Services at Riverview Medical Center. He said he commended Dr. Cheslock during the introduction for, after 30 years of medical service, recognizing that 70 percent of our growing Latino community, 30 percent of our African American community and 30 to 40 percent of working people had no insurance and, recognizing that need, worked to establish the Parker Health Clinic. He said these are two tremendous individuals who have contributed so much to our community. He noted that a third individual, Mr. Willie Banks, had received the Freedom Fund Volunteer Award and the Freedom Fund Achievement Award.

Mayor Menna introduced Albert Daniels from the audience and said that he would be making a presentation to Mr. Daniels at Bates Lodge. Mayor Menna noted that Mr. Daniels had been the Exalted Ruler at Bates Lodge for many years adding that for many decades he has worked to assist others in our community quietly and without fanfare. He reviewed the many examples of community services given by Mr. Daniels and noted that a proclamation will be given at the next meeting of Bates Lodge.

Mayor Menna also thanked David Prown for his work on the Red Kettle Classic.

PAYMENT OF VOUCHERS

08-248 Mayor Menna read "A RESOLUTION FOR PAYMENT OF BILLS AMOUNTING TO \$2,539,015.18."

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

ROLL CALL:

AYES: Cangemi, Giannell, DuPont, Horgan, Lee, Murphy

NAYS: None

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

OLD BUSINESS

NEW BUSINESS

Councilman DuPont noted that a fourth Red Bank resident, Reverend Elmer Jackson, had also received an award.

Mayor Menna apologized for the oversight.

Councilman DuPont also noted that, under the name of Project Porchlight, the Environmental Commission along with a number of volunteers has passed out a number of environmentally safe and cost effective light bulbs. He also thanked Mr. Prown for his work on the Red Kettle Classic.

Councilwoman Cangemi said she was unaware that ordinances for first reading didn't come onto the agenda without being workshopped. She said she realized it was too late to get this done before the end of the year, but she would like the Council at some point in the future to address the issue of health insurance for Council Members. She said she apologized if she incorrectly attempted to introduce the ordinance, but hoped that in the future someone would consider that the \$36,000 could be put to better use than to insure Council people.

AUDIENCE

David Prown, 44 Hillside Place, congratulated Councilwoman Lee on her award and noted that Gilda Rodgers, an administrator at the High School as well as a resident and business owner, had also received an award. He said it was a real Red Bank night. He also wanted to note that over the Thanksgiving weekend he conducted a sports shuttle to get Red Bank kids to sports tryouts. He thanked Administrator Sickels, Parks and Recreation Director Bob Evans and the Borough for their help. He noted that the basketball tryout is a dual tryout and kids from other towns usually have parents to transport them home for rest, food, etc. between tryouts while Red Bank kids often had to lie on the gym floor waiting for the second tryout putting them at a disadvantage. He said transportation is a big issue, noted that he had received full support and hoped to do it again next year. He reported that this Tuesday at the Two River Community Bank in Tinton Falls, the Red Bank Area Kiwanis will be assisting Red Bank Recreation by making phone calls from Santa to Borough children. He noted that while it is a Red Bank Program, the Kiwanis Club has adopted it. He also noted that he has attended several meetings reporting on the low participation by Red Bank kids at the High School level. He pointed out that none of the Red Bank kids from the Middle School band transferred over to the high school level and questioned what could be done to help them achieve this as they transitioned to the high school. Finally, Mr. Prown asked for a Community Center update, noting that there had been an article in the paper that alluded to the fact that something might be coming up this evening.

Councilman DuPont said that the Community Center Task Force has made their recommendation to the Borough and that the Mayor and Council are taking it under advisement.

Mr. Prown said he had gotten the impression that something might be happening tonight.

Mayor Menna said no action was being taken this evening.

Mr. Prown asked what the next action would be.

Mayor Menna said it would be preferable to act on it after the first of the year and he would expect that the action would be to accept or reject the bids that were received.

Mr. Prown asked if the Council would come back to the committee.

Mayor Menna said any action would be taken in the public domain so that the public is fully aware of the ultimate decision. He noted that the action could be accepting, rejecting or some other action adding that the Council has to study it closely. He commended Mr. Prown and the committee for doing tremendous work.

Mr. Prown asked again if questions would be directed back to the committee.

Councilman DuPont said he felt the committee had done their job and that he was pushing for the committee's recommendation and hoped action would be taken in January.

George Kolber, 884 Navesink River Road and owner of PS 5/144 Drs. James Parker Blvd., said he wanted to address the matter of the Count Basie Learning Center Building. He noted that he had purchased a building formerly owned by the YMCA and returned it to the tax rolls noting that it carried substantial taxes. He said when they purchased the building, they expected it to be the first of many investments purchased on the Westside and shortly after the purchase it came to their attention that the adjacent building was being auctioned. He said at the two attempts at auction of the building, he noted, nobody showed. He said he felt it was clear that the \$800,000 starting bid bore no reality to the market place at that time or at this time. He said in August of 2007 he sent a letter to Council detailing significant flaws in the appraisal and that he would be willing to pay a fair market price for the building. He noted that the sale would improve the neighborhood as they would improve the physical asset and add about 25 parking spaces complying with all zoning ordinances. He said it would also make the building a tax ratable again which was stated as a goal when the building was put up for auction. He said it later came to his attention that this property was being considered as a location for a community center. He said having heard nothing in response to his communication, on January 25, he again sent a letter to all Council Members pointing out what he believed were the shortcomings of a community center in that location and that the programs were already available through the YMCA. He then revealed that the tenant they had in mind would be operating a Head Start program. He noted that he never received a formal response but was advised that a committee of the council was established to merely determine the feasibility of the location being a community center and that a report would be rendered to the full Council and that they would consider all the uses for that location. He noted that last Friday, the Asbury Park Press reported that the Boys and Girls Club of Monmouth was going to be awarded the contract and that there was no interest from Head Start for a program there. He said he felt that there was a disconnect with regard to the YMCA. He said he was here to inform the Council that he and his partners were interested in buying the building at market rate, that they want to put a Head Start in the building, they will pay taxes on the building, they will add significant parking to the location and that they will improve the building which will help improve the Westside. He said he brought people from Head Start with him

tonight who will explain what Head Start is all about. He said he is convinced that people on the Council don't understand what Head Start is and what they are here for.

Margaret Morales, Acelero Learning, introduced various Head Start personnel with her and presented material on the Head Start program. She said they were very hopeful that they would be able to work with the Council to provide more extensive services to the children and families in the community. She said not just educationally but also socially and emotionally and not just to preschool children but also to their families and the community.

Margaret Krabbe from Head Start asked Council Members if they were familiar with Head Start. She explained that Head Start does not look at it as though a child is enrolled in Head Start, but rather that a family is enrolled and they provide comprehensive services to that family such as health, special needs, disabilities, mental health and family services. She reviewed the difficulties facing families today and stressed Head Start's parent involvement and family activities.

Ms. Morales reiterated the focus that the program places on families and discussed the Creative Curriculum used by Head Start and the Pre School Expansion Initiative recently enacted by Governor Corzine. She said they have met with Red Bank School Superintendent Morano to make sure the community's needs are being met and have reached out throughout the county. She asked for the support of the Mayor and Council to help meet those needs.

Ms. Krabbe reviewed the community partnerships that they are involved in.

Mr. Kolber told the Council that he would like to address the fact that a Request for Proposal had been put out and that he and his partners did not respond. He said they could not because their proposal was an alternative to the Community Center. He quoted several items listed in the RFP that would not apply to their proposal. He noted that the types of activities that the RFP was requesting are offered by the YMCA. He questioned the building's ability to meet the needs requested. He asked a representative of the YMCA to step forward and confirm that the organization could meet the needs.

Gary Laermer of the YMCA confirmed to the Council that their facility had the capacity to meet the needs requested.

Mr. Kolber said the Boys and Girls Club Program proposal had noted that they would need to raise between \$300,000 and \$400,000 to make it successful. He said, while the organization claims to have the sources, what happens if they don't. He noted that if the Boys and Girls Club fails, the opportunity for a Head Start facility and making the building taxable will be lost. He questioned the idea of competing with the YMCA. He noted that the tax money that would be made off the building could be used to pay for the programs mentioned. He noted that he owns the building next door and said it would be hard for him to find tenants if there are kids "hanging around" outside the building as he believes would happen if it were a community center. He asked one of his tenants to step forward and express her concerns.

Janet Volk said she was a future tenant and a physical therapist. She said she had researched the Boys and Girls Clubs of America and noted that the hub of their program was a gymnasium and they focus on physical activities. She said she was in favor of that, but noted that the YMCA has a gymnasium that offers physical sports and said the town also has a Parks and Recreation program. She said she felt that the Boys and Girls Club programs could be redundant. She said she would be treating seniors and she was concerned about the traffic flow at the intersection and having kids hanging out. She noted that there wasn't much backyard space to be used for recreation. She said she was concerned and confused as why this particular building was considered for a Community Center.

Mr. Kolber passed out a letter from the Shrewsbury Avenue AME Zion Church in support of Head Start being in the building. He noted that they had been working with the church and that the church was looking forward to using parking that would be made available under his plan. He said he knew that the final decision had not been made and he asked the Council to carefully consider the many issues he had presented. He asked the Council if they had any questions.

Councilman Giannell asked about the building that Mr. Kolber currently owns.

Mr. Kolber said it was an office building that was leased out.

Councilman Giannell asked Mr. Kolber if he knew when the appraisal for \$800,000 was done.

Mr. Kolber said he did not.

Mayor Menna asked Mr. Kolber's partner Michael Simpson if he knew.

Mr. Simpson said he believed it was done between December of 2006 and July of 2007.

Mr. Giannell asked if Mr. Kolber would share the appraisal he had done.

Mr. Kolber declined but said he would be glad to sit down and talk to the Council.

Mr. Giannell confirmed that Mr. Kolber was looking to acquire the building and offer Head Start a long term lease.

Mr. Kolber said he was looking at a 10 year lease and outlined his philanthropic interests.

Mr. Giannell said while he had voted in favor of going forward with the request for proposals, he would rather see the building go back on the tax rolls. He asked Mr. Kolber if he would be willing to bid on the building if it had deed restrictions that would not allow a tax exempt organization to buy it.

Mr. Kolber said he would not mind that particular deed restriction and again compared his proposal to that of the Community Center.

Mr. Giannell said he would like to make a motion to order a new appraisal with the goal of putting the building up for public bid with certain deed restrictions.

Mayor Menna noted that before that could be done, but the bidding process must be completed with an acceptance or rejection.

Mr. Kolber said he agreed and asked the Council to consider all of the options. He said he didn't mind waiting a little longer to get it done right and again offered to sit down to discuss it.

Mayor Menna noted that the process had developed a dialog between a lot of interested parties. He asked all Council Members to review the bids and the overall plan.

Councilman Murphy asked if Mr. Kolber had been given the opportunity to submit an RFP.

Mr. Simpson said there was an RFP process that was out there for two different things, noting that there were two auctions for the property and there was also an RFP for a Community Center. He said the RFP for the Community Center has nothing to do with the Head Start Program so there was no logical way to respond. He also noted that they were the only bidders that showed up at either of the public bids. He said the minimum bid requested had no reasonable basis for the marketplace at that time, much less now. He said he recognized that they have had opportunities to bid on the property and have sent letters expressing their interest. He said that he thought the idea of a Community Center was a great idea, but questioned whether it was appropriate for this building.

Councilman Murphy said that letters had been received expressing their interest in buying the building but never with a definite number in mind. He said the way Mr. Kolber explained it tonight was totally different from what he had understood. He added that it had never been presented this way and he noted that they had been welcome to put a number in. He said he wasn't sure they couldn't have submitted a proposal for the Community Center RFP.

Mr. Simpson clarified why that wouldn't have been appropriate.

Councilman Murphy said he realized that the YMCA provides programs and gives free membership to Borough fourth through seventh graders as well as the Police Department, but he said, in general, he doesn't believe the doors of the YMCA are open to Red Bank children to take advantage of the programs they offer.

Mr. Simpson said they were just saying there was a facility offering the programs and suggested they sell the building and use the tax revenue to offset the cost of providing the programs. He also noted some other facilities in town that could be used.

Councilman Murphy said he would be willing to listen to their proposal before he voted on the other proposals.

Mayor Menna noted that the YMCA does have a program that addresses individual needs.

Councilman Murphy said he didn't mean to single out the YMCA, he noted that several places in Red Bank have nice gyms but nobody can use them.

Councilwoman Lee said that she felt Head Start was one of the best programs going, however, Red Bank needs to support its older children. She said she felt there was a disconnect in the community and said getting kids to facilities is an issue. She said her job as a Council person is to answer the parents first. She agreed that it was a poor location for a center and that it could work for a Head Start center. But, she added, that is not the problem that Red Bank faces.

Mr. Kolber said he felt walking was not the worst thing and pointed out that this building would not hold a gymnasium or similar large activities. He said he also felt it was too close to the YMCA. He also suggested using the taxes received from the building to supplement activities.

Councilwoman Lee said it is difficult to release Borough property when we have a need to fill, even if it could only be met in a small way by this building. She added that she understood that Rev. Porter had offered property at Pilgrim Baptist Church which would be a better location. She said she was a believer in getting the kids away from a major intersection. She repeated that she thought Head Start was a wonderful program for small children, but that we had a lot of programs for small children.

Mr. Kolber again offered to speak with the Committee about his proposal.

Councilman Giannell said the Council should be doing everything possible to keep taxes down and that we don't need more tax exempt properties.

Councilman DuPont said, as a former Board member of Head Start and a member of the Community Center Task Force, he believes the building already purchased by Mr. Kolber used to be a Community Center. He noted that the task force made the recommendation because it saw a need. He said he understood the benefits explained by Mr. Kolber. Mr. DuPont added that he had made the recommendation to acquire the building and that Mr. Kolber could build a community center on the lot offered by Rev. Porter rather than pay for the building. He said the Community Center Task Force viewed their proposal as a pilot program and that it was a Community Center as well as a Youth Center. He said the committee believed that this was a poor location for it and that there were other areas that were better suited for it, but that this is all we have at this time. He noted that a proposal submitted by the YMCA would cost the Borough \$88,000 and the Boys & Girls Club of America was free to the Borough and a pilot. He noted that any agreement would be subject to Mayor and Council discussion and subject to a lease. He said it was a temporary thing, but a need that is permanent and that Red Bank needs to consider this. He acknowledged Councilman Giannell's concern about taxes and noted that when they tried to sell it there were no bids. He said after a time with the Community Center, the property could be put back on the tax rolls. He said everyone who has spoken has an interest in it, but everyone wants Red Bank to be a better place and hopes a Community Center can be on this site with a plan to move it to a better site. He said we have a need to give to our kids, not just the young but also adolescents. He noted that the Board of Education serves many roles and maybe, in combination with Head Start, our three and four year old children will be properly served. He urged the Council to move forward but not disregard the work of the Task Force. He again noted the YMCA proposal carried an \$88,000 price and that the Boys & Girls Club was no cost to the Borough.

Councilwoman Cangemi thanked Mr. Kolber for attending and said she has grave concerns about what happens to Red Bank kids as they transition to the high school, noting that they are vastly underrepresented. She said the younger children are also important and that she is aware of a waiting list for Head Start programs. She said to lose the opportunity to have a Head Start program and a ratable in order to put in a second rate Community Center is something that there is some risk to. She noted that saying it isn't going to cost anything isn't necessarily true because there is lost revenue from taxes. She thanked Mr. Kolber for a proposal that, should the Community Center not go forward, would serve the community without adding to the tax burden.

Juanita Lewis, 344 Shrewsbury Avenue, said that, as a member of the Board of Education, she just wanted to remind everyone that the three and four year old program has been expanded and is projected to continue to expand over the next five years. Also, she is not aware of any collaboration right now between Head Start and the Borough.

Councilman Murphy asked if the expansion was through the YMCA.

Ms. Lewis said it was a combination of community partners.

Mayor Menna asked if anyone else would like to speak and noted that the Council would be going into Executive Session.

Bill Meyer, 12 Monmouth Street, said the Mayor had noted that there would be a public hearing on 51 Monmouth Street and he was wondering if that would be discussed during the Executive Session. He said he is continuing to research it. He said he believes, now more than ever before, that we are entitled to get that building back.

Mayor Menna noted that that item is not on the agenda for Executive Session.

Councilman Giannell said, based on Mr. Meyer's findings, he would make a motion to direct our attorneys or hire Mr. Meyer to seek to get the building back.

Councilman Murphy asked if we would inherit costs with the building.

Councilman Giannell said not the way he saw it and several attorneys were of the same opinion.

Mayor Menna questioned the opinion of any attorney that hadn't researched the hundreds of documents involved.

Mr. Giannell said he was speaking in regard to the statute saying he believed the building should have been put up for public bid and that if it went to a charitable organization it must include a reverter clause. He said it was our building.

Borough Attorney Hall said he disagreed.

Mayor Menna said that when and if a determination was eminent on that issue, it was a legitimate public discussion and that they would have it.

Steve Fitzpatrick, Hudson Avenue, asked that the record reflect that when Councilman Giannell said he thought the building was ours, Attorney Hall disagreed.

Mr. Hall acknowledged that that was correct.

Mr. Fitzpatrick said he wanted to make sure it was reflected in the record.

Mr. Meyer said he was concerned about the secrecy. He said they can't get any information. He said the statute was represented in the original ordinance that dealt with the reverter clause and that it almost copied the statute that allows the town to give the building to a non profit for a dollar for a particular purpose and only that purpose after which it reverts back. He said in essence the building was never sold. He said we have never got good consideration for it and noted that he has asked to see the dollar. He said it was his opinion that we are entitled to get the building back. He noted that Attorney Hall has refused to tell him why we should come to any other legal conclusion and he didn't understand why that can't be given to the public.

Mr. Hall said it was privileged.

Mayor Menna said when the privilege is released, Mr. Hall will release the substance of his opinion as well as his directive to the Council at a public forum, not to individuals.

Mr. Meyer suggested that there might be reasons someone other than an appointed counsel should be looking into this.

Mayor Menna asked for an example.

Mr. Meyer noted that the Borough Counsel was appointed by people who were involved in the decision making process at the time.

Mayor Menna noted that Mr. Hall was not the attorney at the time.

Mr. Meyer said he believed they were appointed by a Mayor that was involved in the corporation that has title to the property.

Mr. Hall noted that they were reappointed by the current Mayor.

Mayor Menna said he didn't believe there was a conflict.

Mr. Meyer disagreed and said he believed the public was entitled to more information than it had gotten and that the public should be allowed to participate in the decision making process.

Mayor Menna said the entire file will be made public when the negotiations are complete, but that right now it was nowhere near that stage.

Councilman Giannell repeated his motion to instruct the Borough Attorneys to move forward to take possession of the building.

Mayor Menna asked Attorney Hall if that could be done.

Mr. Hall said, assuming the motion passes, he could render an opinion as to whether it could be done and he would render it in private.

Mayor Menna clarified that the Attorney was saying it was a matter that he couldn't discuss in public because it involved litigation and property acquisition. He asked Mr. Giannell if, in light of that he still wanted to renew his motion.

Councilman Giannell put the motion forward and Councilwoman Cangemi said she would second it because she felt there were too many questions.

ROLL CALL:

AYES: Cangemi, Giannell

NAYS: DuPont, Horgan, Lee, Murphy

There being two ayes and four nays, the motion was declared failed.

A discussion followed whether the motion was to request an illegal act.

Councilman Murphy noted that Mr. Meyer and Mr. Fitzpatrick have been speaking at meetings as long has he's been on Council. He said they insinuate something is wrong but nothing ever comes to light. He commended them as good citizens but said there was a lot of insinuation.

Mayor Menna said he had a solution and asked Mr. Meyer to prepare a brief for the Council's review and they will look at it and act on it accordingly.

Jim Harris, Mechanic Street, commended the Republican members of Council. He noted that come January there may not be any more four to two votes, that they would all be six to zero.

Mayor Menna noted recent votes that would dispute that.

Mr. Harris again thanked the Republican members for their service.

EXECUTIVE SESSION

08-249 The Attorney read a resolution to adjourn to executive session to discuss litigation and negotiations.

Councilman Murphy offered a motion, seconded by Councilman DuPont to adjourn to executive session to discuss litigation and negotiations. Minutes to be made public in 180 days.

ROLL CALL:

AYES: Cangemi, Giannell, DuPont, Horgan, Lee, Murphy

NAYS: None

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

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

ROLL CALL:

AYES: Cangemi, Giannell, DuPont, Horgan, Lee, Murphy

NAYS: None

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

RESOLUTIONS

08-250 Mayor Menna read "A RESOLUTION AUTHORIZING AGREEMENT WITH THE FAIR SHARE HOUSING CENTER MODIFYING SCARCE RESOURCE RESTRAINTS IMPOSED BY THE NEW JERSEY COUNCIL ON AFFORDABLE HOUSING."

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

ROLL CALL:

AYES: Cangemi, Giannell, DuPont, Horgan, Lee, Murphy

NAYS: None

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

ADJOURNMENT

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

ROLL CALL:

AYES: Cangemi, Giannell, DuPont, Horgan, Lee, Murphy

NAYS: None

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

Respectfully submitted,

Pamela Borghi