

**MINUTES  
REGULAR MEETING  
MUNICIPAL COUNCIL – BOROUGH OF RED BANK  
JULY 24, 2006  
7:30 P.M.**

**PLEDGE OF ALLEGIANCE**

**ROLL CALL**

PRESENT: Mayor McKenna and Council Members Ernst, Lee, Menna, Bifani, Murphy and Curley.

ALSO PRESENT: Administrator Sickels, Borough Clerk Vivona, Chief Financial Officer Loversidge, Attorney Pringle, Assistant Attorney Hall and Engineer Kosenski.

**SUNSHINE STATEMENT**

Mayor McKenna 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 3, 2006.

**SUSPEND REGULAR ORDER OF BUSINESS**

Ms. Lee offered a motion to suspend the regular order of business, seconded by Mr. Murphy.

**ROLL CALL:**

AYES: Ernst, Lee, Menna, Bifani, Murphy, Curley

NAYS: None

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

06-154 Mayor McKenna read “A RESOLUTION APPOINTING PROBATIONARY POLICE OFFICERS.”

Mr. Murphy offered a motion to approve the resolution, seconded by Mr. Menna.

**ROLL CALL:**

AYES: Ernst, Lee, Menna, Bifani, Murphy, Curley

NAYS: None

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

The Borough Clerk issued the Oath of Office to the new Officers.

**Presentation of 2005 Audit**

Mr. Kaplan presented the 2005 Audit.

**RESUME REGULAR ORDER OF BUSINESS**

Mr. Murphy offered a motion to resume the regular order of business, seconded by Mr. Menna.

**ROLL CALL:**

AYES: Ernst, Lee, Menna, Bifani, Murphy, Curley

NAYS: None

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

**WORKSHOP**

**2006 Budget Amendment**

**MAYORAL APPOINTMENTS**

**REPORTS OF MAYOR AND COUNCIL MEMBERS**

**COMMUNICATIONS AND PETITIONS**

Mayor McKenna read requests from Red Bank Elks Lodge #233 and Bates Lodge #220 for raffle licenses.

Mr. Menna offered a motion to approve the request, seconded by Mr. Murphy.

**ROLL CALL:**

AYES:           Ernst, Lee, Menna, Bifani, Murphy, Curley

NAYS:           None

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

Mayor McKenna read a request from RiverCenter to hold the White Street Summer Celebration on August 26, 2006 from 10 a.m. to 10 p.m., pending approval of the Special Events Committee.

Mr. Murphy offered a motion to approve the request, seconded by Ms. Lee.

**ROLL CALL:**

AYES:           Ernst, Lee, Menna, Bifani, Murphy, Curley

NAYS:           None

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

Mayor McKenna read a request from RiverCenter for a seasonal outdoor display period starting upon approval and ending November 1<sup>st</sup>, pending approval of the Code Enforcement Office and the Police Department.

Mr. Murphy offered a motion to approve the request, seconded by Mr. Curley.

**ROLL CALL:**

AYES:           Ernst, Lee, Menna, Murphy, Curley

NAYS:           Bifani

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

Mayor McKenna read a request from The Rolling Roadshow for use of Marine Park to show the movie "Clerks" on Tuesday, August 8, 2006 from 6 p.m. to 12:30 a.m., pending approval of the Special Events Committee.

Mr. Murphy offered a motion to approve the request, seconded by Mr. Bifani.

**ROLL CALL:**

AYES:           Ernst, Lee, Bifani, Murphy, Curley

NAYS:           None

ABSTAIN:       Menna

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

**PUBLIC COMMENT ON RESOLUTIONS ON THE AGENDA AND ORDINANCES ON THE AGENDA ON FIRST READING**

**ORDINANCES – First Reading**

2006-36        Mayor McKenna read "AN ORDINANCE OF THE BOROUGH OF RED BANK, COUNTY OF MONMOUTH, STATE OF NEW JERSEY AMENDING AND SUPPLEMENTING CHAPTER VII, "TRAFFIC," SECTION 7-3.3, "PARKING PROHIBITED AT ALL TIMES ON CERTAIN STREETS"; SECTION 7-3.4, "PARKING PROHIBITED DURING CERTAIN HOURS ON CERTAIN STREETS"; AND SECTION 7-9, "BUS STOPS."

Mr. Murphy offered a motion to adopt the ordinance on first reading, seconded by Mr. Bifani.

ROLL CALL:

AYES: Ernst, Lee, Menna, Bifani, Murphy, Curley

NAYS: None

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

Public hearing and final adoption scheduled for August 14, 2006.

2006-38 Mayor McKenna read “AN ORDINANCE AMENDING CHAPTER II, “ADMINISTRATION,” SUBSECTION 2-65, “PAYMENT OF CLAIMS BY BOROUGH” AND SUBSECTION 2-76, “CONFLICTS OF INTEREST” OF THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF RED BANK.”

Mr. Bifani offered a motion to adopt the ordinance on first reading, seconded by Mr. Murphy.

ROLL CALL:

AYES: Ernst, Lee, Menna, Bifani, Murphy, Curley

NAYS: None

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

Public hearing and final adoption scheduled for August 14, 2006.

#### **ORDINANCES – Public Hearing & Final Adoption**

2006-37 Mayor McKenna read “AN ORDINANCE OF THE BOROUGH OF RED BANK, COUNTY OF MONMOUTH, NEW JERSEY AMENDING AND SUPPLEMENTING CHAPTER VII, “TRAFFIC,” SECTION 7-3.9, “PERMIT PARKING IN DESIGNATED AREAS,” SCHEDULE XIX, “RESIDENTIAL PARKING DISTRICT NUMBER TWO.”

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

Mr. Menna offered a motion to close the public hearing, seconded by Mr. Murphy.

ROLL CALL:

AYES: Ernst, Lee, Menna, Bifani, Murphy, Curley

NAYS: None

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

Mr. Menna offered a motion to table the ordinance on final reading, seconded by Mr. Murphy.

ROLL CALL:

AYES: Ernst, Lee, Menna, Bifani, Murphy, Curley

NAYS: None

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

#### **RESOLUTIONS**

06-155 Mayor McKenna read “A RESOLUTION AUTHORIZING A PETITION TO THE DEPARTMENT OF COMMUNITY AFFAIRS FOR THE REALLOCATION OF CERTAIN GRANT MONIES.”

Mr. Murphy offered a motion to approve the resolution, seconded by Ms. Lee.

ROLL CALL:

AYES: Lee, Menna, Bifani, Murphy, Curley

NAYS: Ernst

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

06-156 Mayor McKenna read “A RESOLUTION AMENDING RESOLUTION NO. 06-129 REAPPOINTING WILLIAM HIMELMAN AS MUNICIPAL COURT JUDGE.”

Mr. Bifani offered a motion to approve the resolution, seconded by Mr. Murphy.

Councilman Curley said he had some concerns regarding the reappointment and said he recalled that an appointment had just been done one or two Council Meetings previous to appoint Judge Himelman for the remainder of the year to his unexpired term. He said he had expressed his negative opinion about anyone retiring from the Borough and then coming back and collecting a salary. He said he felt when someone was retired, they were retired. He said he viewed it as a manipulation of pension, benefits and salary and didn't think it was a good precedent to set. He said there would also be a new administration as of November, regardless of the party, and he thought it would behoove the Borough and the new Administration to be allowed to appoint their own Municipal Court Judge for 2007.

Mayor McKenna said, as he understood it, there were two problems. First, he said, when the Council made the appointment they were supposed to appoint Judge Himelman to fill the unexpired term so the resolution being considered would only reaffirm what New Jersey law required as Municipal Court Judges were appointed for three year terms. Part of the reason for that, he continued, was so that Municipalities were not continuously changing their Municipal Court Judge as Governing Bodies change. He said the resolution passed the previous month was done incorrectly and they should have appointed him for the remainder of his unexpired term.

Councilman Menna confirmed that the statutory term for Municipal Court Judges was a three year term and the Governing Body had neglected to do that. He also agreed that the point was to keep Municipal Magistrates out of politics. He also reminded the Council that Judge Himelman had been appointed over 30 years ago by a republican administration and had served democratic and republican administrations. He also said he felt the judge was politically blind when anyone appeared before him. He said the Council had made a mistake by not making the appointment for three years. He said the appointment was a home run for the Borough taxpayers where Judge Himelman would be working for one dollar for the rest of the year and will be cutting his salary to \$15,000 for the remaining two years. He added that the standard rate for a Municipal Court Judge for a town of Red Bank's size was in excess of \$40,000 plus benefits. More importantly, he continued, he felt Judge Himelman had dedicated his life to the Borough in many different ways and he was a qualified, competent Jurist, well recognized by the members of the bar and by other judges.

Councilman Menna said, regarding the issue of whether or not someone who retired should come back to work for the Borough because it was double dipping, he would respectfully disagreed with that. He said the Borough had a tradition of bringing back competent individuals who had served their time and retired and then expressed an interest to come back and work. He cited specific examples and said if the person was competent and wanted to come back and continue to give to the community, it was a home run for the tax payers. He said another judge would be paid in excess of \$40,000 and he respectfully disagreed that it was a bad practice.

Councilman Bifani said by making the appointment and locking in the rate of \$15,000, it would secure a great rate for the taxpayer. He also noted that the Borough had just made a similar appointment in the Department overseen by Councilman Curley and he had voted in favor of it.

Councilman Curley agreed and said, while he couldn't discuss the particulars, the Borough was in a dire crisis and it was a necessity to keep the financial structure of the Borough from falling apart. He said they were very fortunate to have someone come in. He said this was not that type of situation and said it was originally presented to the Council that he would be appointed for one year for one dollar. He said now it was being presented as a three year appointment and, from June to December 31, it would be one dollar and then \$15,000 from the January 1 through December 31 of 2007. He asked how the three year appointment came into play.

Mayor McKenna explained that it was not a full three year appointment but the remainder of an unexpired term. He said the Council had initially planned to appoint Judge Himelman for the remainder of 2006 when, under the law, they were required to appoint him for the rest of 2006 and calendar year 2007. He said it was basically a one and half year appointment.

Mayor McKenna said another point that had been made by Councilman Menna and Councilman Bifani was that, if the Borough was to not renew Judge Himelman's appointment and go out into the marketplace, they would be paying \$50,000 to \$60,000 as opposed to one dollar for the remainder of this year and \$15,000 for next year. He added that anyone financial prudent would see the logic and basis for making the appointment. He questioned why the Council would expose the Borough by paying a lot more money for someone who may or may not be as qualified as Judge Himelman and subject the taxpayer to that cost when Judge Himelman had been generous enough to offer to serve the remainder of the year for one dollar and serve the following year for \$15,000.

Councilman Curley said the offer to serve for one dollar was because, under his pension plan, that was all that Judge Himelman was allowed to collect. He said that was also the case for his offer to serve for \$15,000 the following year.

Mayor McKenna said it didn't matter it was still a cost savings.

Councilman Curley said he thought it looked like an extension of the "good old boys club" and he was upset by the manipulation.

Administrator Sickels said, for the record, that the amounts of one dollar and \$15,000 no longer included any pension contribution because he was retired and receiving his pension. He said the Borough would no longer make any pension contribution and the salary would not further benefit Judge Himelman's pension.

Councilman Bifani told Councilman Curley that he continued to bring up the wrong things when it came to finance and noted that he had said the finance office was in disarray yet it was under his leadership. He accused Councilman Curley of wanting to bring in his own guy at \$40,000 rather than have the Council secure the savings.

Councilman Curley acknowledged that an employee had caused the disarray and noted that the Mayor had appointed him as Chair to that committee four years in a row and he knew the Mayor did not want to see anything negative happen to the finances of the community. He said he believed it was a testament to himself that the Mayor had appointed him four consecutive times.

Mayor McKenna said he regretted having done it because, while it had been rehabilitated, it was not thanks to Councilman Curley and he felt he had never seen a worse Finance Chair. He cited lack of communication with both the Auditor and the Council.

Councilman Curley noted that Councilman Menna and Councilwoman Lee were also on the committee. He said the point was he was not a yes man.

Mayor McKenna said no one was asking him to do that, they were asking him to do his job.

A discussion followed of Finance Committee meetings regarding attendance and conduct.

Councilman Menna called for a vote.

ROLL CALL:

AYES: Ernst, Lee, Menna, Bifani, Murphy

NAYS: Curley

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

06-157 Mayor McKenna read "A RESOLUTION AUTHORIZING AMENDMENT TO 2006 MUNICIPAL BUDGET."

Mr. Menna offered a motion to approve the resolution, seconded by Mr. Bifani.

ROLL CALL:

AYES: Ernst, Lee, Menna, Bifani, Murphy, Curley

NAYS: None

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

06-158 Mayor McKenna read "A RESOLUTION PETITIONING THE COUNTY OF MONMOUTH TO REPROGRAM CERTAIN PEDESTRIAN COUNTDOWN SIGNALS AT CERTAIN PEDESTRIAN COUNTDOWN SIGNALS AT CERTAIN INTERSECTIONS ALONG FRONT STREET WITHIN THE BOROUGH OF RED BANK."

Mr. Bifani offered a motion to approve the resolution, seconded by Mr. Murphy.

ROLL CALL:

AYES: Ernst, Lee, Menna, Bifani, Murphy, Curley

NAYS: None

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

**PROCLAMATIONS**

**PAYMENT OF VOUCHERS**

06-159        Mayor McKenna read “A RESOLUTION FOR PAYMENT OF BILLS AMOUNTING TO \$1,981,444.69.”

Mr. Curley offered a motion to approve the resolution, seconded by Mr. Menna.

ROLL CALL:

AYES:        Ernst, Lee, Menna, Bifani, Murphy, Curley

NAYS:        None

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

**OLD BUSINESS**

**NEW BUSINESS**

**AUDIENCE**

**EXECUTIVE SESSION**

**ADJOURNMENT**

Mr. Murphy offered a motion, seconded by Ms. Lee to adjourn the meeting.

ROLL CALL:

AYES:        Ernst, Lee, Menna, Bifani, Murphy, Curley

NAYS:        None

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

Respectfully submitted,

Carol A. Vivona