

**MINUTES
REGULAR MEETING
MUNICIPAL COUNCIL – BOROUGH OF RED BANK
MAY 23, 2005
7:30 P.M.**

PLEDGE OF ALLEGIANCE

ROLL CALL

PRESENT: Council President Menna and Council Members Beck, Lee, Murphy, Curley.

ALSO PRESENT: Administrator Sickels, Deputy Clerk Hughes, Chief Financial Officer Whalen, Engineer Kosenski and Attorney Pringle.

ABSENT: Mayor McKenna, Council Members Menna and Bifani and Borough Clerk Vivona.

SUNSHINE STATEMENT

Council President Menna requested the minutes reflect that, in compliance with Public Law 1975, Chapter 231 (Open Public Meetings Act), notice of this meeting has been provided by notifying the Asbury Park Press, the Courier, the Two River Times and the Star Ledger and by placing a notice on the bulletin board and filing same with the Borough Clerk on January 3, 2005.

WORKSHOP

Councilwoman Beck reported that the Environmental Commission had worked on the Bellhaven Nature area this passed Sunday and that it was coming along nicely. She said the path was almost complete and planting was being done.

Councilwoman Beck also reported that JCP&L and the Shade Tree Committee had divided the list of trees that had been identified by JCP&L for removal to see if they could be trimmed instead. She said any trees removed would be replaced and that no work would be done until a letter went out to the residents.

Councilwoman Lee distributed the Red Bank Summer Activity Fair Directory. She said the fair would be held at the Middle School tomorrow and would feature all of the programs available for the summer. She thanked David Prown for his efforts on the program.

Councilman Menna thanked Ms. Lee and asked her to extend the council's thanks to the entire committee.

Councilman Curley said he had received a number of calls regarding a wall removed at Hilltop Terrace. He said there was an overwhelming desire to have the wall replaced. He added that the Historical Commission is looking into the situation and asked the Building Department to do so also. He said the residents are ready to petition.

Councilman Menna said there were two issues; first, whether or not the wall was historic and second, the necessity to control soil and sediment and water runoff. He said there is no question that there needs to be a wall on the premises. He questioned why the wall had to be removed right away.

Administrator Sickels said he would follow up and that the owner had inquired and sent information to the Engineer asking if the wall could be removed on April 11. He said attempts were made to follow up on April 26, but there was no answer and by the first week of May the owner said he assumed he had permission. He said the Engineer replied that he should not remove the wall, but he was removing anyway. He said Code Enforcement was notified that demolition had been undertaken and Jim Williams issued a stop work order and penalties since they had no permit and no prior approvals. He said the penalty issue was going before the Construction Board of Appeals.

Councilwoman Beck said she found the situation particularly insulting. She said the developer had had a conversation with Donna Barr at the end of February asking what he would have to do. She said Ms. Barr informed him the removal of the wall would require a permit and Planning Board approval. She said they had also removed trees and were told to replace them and that the developer was resistant to that.

Councilman Curley praised Jim Williams and said he was very professional. He said what could have been a heated situation was handled well.

Councilman Murphy asked if the wall was on the Borough's right of way.

Administrator Sickels said he understood it was entirely on the owner's property.

APPROVAL OF MINUTES

MAYORAL APPOINTMENTS

REPORTS OF MAYOR AND COUNCIL MEMBERS

Councilwoman Beck reported that Councilman Menna, Councilwoman Lee and herself had suggested forming a committee to review zoning ordinances.

Councilman Menna said it was a good idea and that he would be interested in participating with Councilwomen Beck and Lee. He said he will make a recommendation to the Mayor.

Councilman Curley said there had been no movement on the budget with the Finance Committee and that the rate was still at 6.84 cents.

COMMUNICATIONS AND PETITIONS

Council President Menna read requests from Catholic Daughters of the Americas Court of St. James #999 and IBPOE #220 Bates Lodge for raffle licenses.

Mr. Murphy offered a motion to approve the requests, seconded by Ms. Beck.

ROLL CALL:

AYES: Beck, Lee, Menna, Murphy, Curley

NAYS: None

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

Council President Menna read a request from VNA to place two (2) tables for health screenings in the plaza sidewalk area of Riverside Gardens Park and the courtyard at the Dublin House on June 16-17, 2005 from 12:00-8:00 p.m., pending approval of Chief Fitzgerald.

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

ROLL CALL:

AYES: Beck, Lee, Menna, Murphy, Curley

NAYS: None

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

Council President Menna read requests for membership to the Red Bank Volunteer Fire Department and First Aid Squad from Edward Washburne, Nicholas Cannone, and Kathy DeFazio.

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

ROLL CALL:

AYES: Beck, Lee, Menna, Murphy, Curley

NAYS: None

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

ORDINANCES – First Reading

2005-25 Council President Menna read “AN ORDINANCE AUTHORIZING THE LEASING OF CAPITAL EQUIPMENT BY THE BOROUGH OF RED BANK, NEW JERSEY FROM THE MONMOUTH COUNTY IMPROVEMENT AUTHORITY AND THE EXECUTION OF A LEASE AND AGREEMENT RELATING THERETO.”

Councilman Curley asked for confirmation that passing the ordinance did not bind them to purchases.

Councilman Menna said that was correct.

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

ROLL CALL:

AYES: Beck, Lee, Menna, Murphy, Curley

NAYS: None

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

Public hearing and final adoption scheduled for June 13, 2005.

2005-26 Council President Menna read “AN ORDINANCE OF THE BOROUGH OF RED BANK, COUNTY OF MONMOUTH, NEW JERSEY AMENDING AND SUPPLEMENTING THE CHAPTER III, POLICE REGULATIONS SECTION 9.11, “PHYSIOGNOMY, PALMISTRY, PHRENOLOGY AND CRAFTY SCIENCES PROHIBITED.”

Ms. Beck offered a motion to adopt the ordinance on first reading, seconded by Mr. Curley.

ROLL CALL:

AYES: Beck, Lee, Menna, Murphy, Curley

NAYS: None

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

Public hearing and final adoption scheduled for June 13, 2005.

2005-27 Council President Menna read “AN ORDINANCE OF THE BOROUGH OF RED BANK, COUNTY OF MONMOUTH, NEW JERSEY AMENDING AND SUPPLEMENTING ORDINANCE NUMBER 2005-16 GRANTING RENEWAL OF MUNICIPAL CONSENT TO COMCAST CABLEVISION OF NEW JERSEY, INC. TO CONSTRUCT, CONNECT, OPERATE AND MAINTAIN A CABLE TELEVISION AND COMMUNICATIONS SYSTEM IN THE BOROUGH OF RED BANK, MONMOUTH COUNTY, NEW JERSEY.”

Administrator Sickels said this was a correction of a previous ordinance to agree with Shrewsbury and Little Silver. He said it will provide for a \$75,000 technical grant to Red Bank Regional High School for the term of the ordinance.

Ms. Lee offered a motion to adopt the ordinance on first reading, seconded by Ms. Beck.

ROLL CALL:

AYES: Beck, Lee, Menna, Murphy, Curley

NAYS: None

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

Public hearing and final adoption scheduled for June 13, 2005.

2005-28 Council President Menna read “AN ORDINANCE OF THE BOROUGH OF RED BANK, COUNTY OF MONMOUTH, NEW JERSEY AMENDING AND SUPPLEMENTING THE CHAPTER X, PERSONNEL POLICIES SECTION 1.3, “AUTHORITY.”

Councilman Curley noted that this will bring us into compliance with the Joint Insurance Fund.

Ms. Lee offered a motion to adopt the ordinance on first reading, seconded by Mr. Curley.

ROLL CALL:

AYES: Lee, Menna, Murphy, Curley

NAYS: None

ABSTAIN: Beck

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

Public hearing and final adoption scheduled for June 13, 2005.

2005-29 Council President Menna read “AN ORDINANCE OF THE BOROUGH OF RED BANK, COUNTY OF MONMOUTH, NEW JERSEY AMENDING AND SUPPLEMENTING CHAPTER VIII, “PARKING LOTS AND HANDICAPPED PARKINGS SPACES”, SECTION 8-2.5, “PARKING TIME LIMITS,” SCHEDULE I, “PARKING METER ZONES.”

Administrator Sickels said the ordinance was recommended by the Parking Committee and offered a better way to manage parking.

Councilman Murphy said he thought it would help make this less confusing and at the same time make better sense.

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

ROLL CALL:

AYES: Beck, Lee, Menna, Murphy, Curley

NAYS: None

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

Public hearing and final adoption scheduled for June 13, 2005.

ORDINANCES – Final Adoption

2005-23 Council President Menna read “A BOND ORDINANCE AMENDING AND SUPPLEMENTING BOND ORDINANCE NUMBER 2004-35 HERETOFORE FINALLY ADOPTED BY THE BOROUGH COUNCIL OF THE BOROUGH ON SEPTEMBER 28, 2004 ENTITLED, “BOND ORDINANCE PROVIDING FOR THE RECONSTRUCTION OF THE SEWER MAIN ALONG MAPLE AVENUE BY THE WATER/SEWER UTILITY, BY AND IN THE BOROUGH OF RED BANK, IN THE COUNTY OF MONMOUTH, STATE OF NEW JERSEY (THE “BOROUGH”); APPROPRIATING \$1,000,000 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$950,000 BONDS OR NOTES TO FINANCE PART OF THE COST THEREOF,” TO AMEND THE DESCRIPTION THEREIN, TO INCREASE THE APPROPRIATION THEREIN BY \$945,000 AND TO INCREASE THE AUTHORIZATION OF BONDS OR NOTES THEREIN BY \$900,000 TO FINANCE PART OF THE ADDITIONAL COSTS THEREOF.”

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

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

ROLL CALL:

AYES: Beck, Lee, Menna, Murphy, Curley

NAYS: None

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

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

Administrator Sickels explained that the bond ordinance was in regard to the sewer collapse and the televising of the lines from Maple Avenue to the pump station. He said it revealed that additional work needed to be done between Irving and Reckless Place. He said this ordinance provides for additional funds to make those repairs and that the lines are in pretty good shape otherwise.

Councilman Curley asked about the schedule for the paving of Maple Avenue that had started in Middletown.

Engineer Kosenski said the work had been ongoing for the last couple of weeks. He said he was working with the Department of Transportation to coordinate getting our sewer work done first; however, someone in their maintenance department released the work. He said the DOT will give us relief on our repairs.

ROLL CALL:

AYES: Beck, Lee, Menna, Murphy, Curley

NAYS: None

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

2005-24 Council President Menna read “AN ORDINANCE OF THE BOROUGH OF RED BANK, COUNTY OF MONMOUTH, NEW JERSEY AMENDING AND SUPPLEMENTING THE CHAPTER XXV, PLANNING AND DEVELOPMENT REGULATIONS SECTION 10.12, “REGULATIONS CONTROLLING CENTRAL COMMERCIAL-2 DISTRICT.”

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

Joyce Midose, Front Street, said she had had a business that provided services such as Tarot Card and spiritual readings for 14 years. She said she is an ordained minister and has performed weddings and funerals. She noted that the bulk of her business is retail and that she wants to continue her business in this community. She noted that her business will be moving from Front Street to Monmouth Street.

Councilman Menna said this change was one that the council was in favor of and it just had not been done. He added that her family-owned business was one of the stores that make Red Bank special.

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

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

ROLL CALL:

AYES: Beck, Lee, Menna, Murphy, Curley

NAYS: None

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

Ms. Beck offered a motion to adopt the ordinance on final reading, seconded by Mr. Curley.

ROLL CALL:

AYES: Beck, Lee, Menna, Murphy, Curley

NAYS: None

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

RESOLUTIONS

05-94 Council President Menna read “A RESOLUTION OF THE BOROUGH OF RED BANK, COUNTY OF MONMOUTH, AUTHORIZING THE MAYOR AND MUNICIPAL CLERK TO EXECUTE A (SHARE) GRANT.”

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

ROLL CALL:

AYES: Beck, Lee, Menna, Murphy, Curley

NAYS: None

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

05-95 Council President Menna read “A RESOLUTION OF THE BOROUGH OF RED BANK, COUNTY OF MONMOUTH, PARTIALLY REFUNDING CERTAIN MUNICIPAL FEES.”

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

ROLL CALL:

AYES: Beck, Lee, Menna, Murphy, Curley

NAYS: None

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

PROCLAMATIONS

PAYMENT OF VOUCHERS

05-96 Council President Menna read “A RESOLUTION FOR PAYMENT OF BILLS AMOUNTING TO \$607,919.00.”

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

ROLL CALL:

AYES: Beck, Lee, Menna, Murphy, Curley

NAYS: None

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

OLD BUSINESS

NEW BUSINESS

AUDIENCE

Steve Fitzpatrick – Chestnut Street - asked Attorney Pringle if his Assistant Borough Attorney Hall would be in conflict due to his position with New Jersey Transit's Board of Directors in regard to the Westside Loft Project.

Attorney Pringle said yes and added that if one attorney in the firm is unable to participate, then all attorneys in the firm are unable to participate.

Mr. Fitzpatrick said he had previously brought up the subject of a Transit Village, however, Assistant Borough Attorney Hall advised the Council not to comment.

Attorney Pringle said the issue Mr. Hall was addressing was that the Council had been asked to give an opinion on an issue that may come before a quasi-judicial board. He said the Council would not discuss the issue until it came before them. He also reviewed what a Transit Village designation was.

Administrator Sickels noted that Mr. Fitzpatrick was specifically asking the Council to comment on an application before the Board of Adjustment.

Mr. Fitzpatrick asked if the Council's inability to comment was covered by statute.

Attorney Pringle said it was common sense.

Mr. Fitzpatrick said if the developer can pitch his application as being compliant with a Transit Village, it seems unfair that the Council can't comment.

Attorney Pringle said the Council can address general issues, however, the issue was specific to the application and he felt a line was crossed.

Mr. Fitzpatrick asked if the town had put in an application a couple of years ago for the Transit Village designation that was subsequently denied.

Councilman Menna and Administrator Sickels said that was correct.

Mr. Fitzpatrick asked if the town could reapply.

Attorney Pringle said there is nothing about the application or design that changes the Master Plan. He said we had received support from the DOT in the form of grants; however, the designation would not give the application greater weight.

Mr. Fitzpatrick said he would still like the local officials to weigh in.

Councilman Menna said there was a subcommittee to address planning issues including density. He said Mr. Fitzpatrick was entitled to and would get answers but it should be in the proper way and not in regard to specific projects.

Mr. Fitzpatrick also commented that the local paper had reported that there were three proposed rail routes which would bring 44 trains per day across Newman Springs Road.

Administrator Sickels said concerns had already been expressed to representatives of New Jersey Transit when Municipal Officials met with them.

Councilwoman Beck said she had participated in the discussions and expressed Red Bank's opposition. She said the Council had not yet done a resolution but she thought it was a good idea.

Councilman Menna suggested Ms. Beck prepare a resolution.

Councilman Curley expressed his grave concern over development in Red Bank and noted that he had been removed from the Planning Board. He said Red Bank was in the process of losing its identity and was going from a borough to a city. He said he understood Mr. Fitzpatrick's concerns regarding the mixed use of a Transit Village.

Councilwoman Beck said she had met with Gail O'Reilly regarding the Transit Village and waterfront issues. She said that a Transit Village sends the message of what the town wants the area to look like. She said she also agreed with Mr. Curley about the rate of development. She said the next five years are critical and that Board appointments will make the difference.

Councilman Menna told Mr. Fitzpatrick that the Council appreciated his comments.

EXECUTIVE SESSION

05-97 The Borough Attorney read a resolution to adjourn to executive session to discuss personnel, contract negotiations, developer’s agreement and property acquisition.

Mr. Menna offered a motion, seconded by Mr. Murphy to adjourn to executive session to discuss personnel, contract negotiations, developer’s agreement and property acquisition. Minutes to be made public in 180 days.

ROLL CALL:

AYES: Beck, Lee, Menna, Murphy, Curley

NAYS: None

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

Ms. Lee offered a motion, seconded by Ms. Beck to adjourn from executive session.

ROLL CALL:

AYES: Beck, Lee, Menna, Murphy, Curley

NAYS: None

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

ADJOURNMENT

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

ROLL CALL:

AYES: Beck, Lee, Menna, Murphy, Curley

NAYS: None

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

Respectfully submitted,

Pamela Hughes