

**MINUTES
REGULAR MEETING
MUNICIPAL COUNCIL – BOROUGH OF RED BANK
NOVEMBER 23, 2004
5:30 P.M.**

PLEDGE OF ALLEGIANCE

ROLL CALL

PRESENT: Mayor McKenna and Council Members Beck, Bifani, Murphy and Curley.

ALSO PRESENT: Administrator Sickels, Borough Clerk Vivona, Chief Financial Officer Whalen, Engineer Kosenki and Attorney O'Connor.

ABSENT: Councilmen Hintelmann and Menna.

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 4, 2004.

WORKSHOP

Obscene Publications Ordinance

Mr. Sickels said that we had received several complaints from residents about a merchant displaying pornography in an area of a store where children walk by and can see it. He said that the ordinance is recommended by the Chief of Police and is in compliance with the State Statutes and if everyone agrees that we should amend the ordinance we would introduce it at the next meeting.

The Members of the Governing agreed that the ordinance should be amended and that children should not be able to view the pornography.

Right-of-Way at Broad Street and Leroy Place

Mr. Sickels said that Mr. Stasi is here tonight representing the property owner of the apartments on the corner of Broad Street and Leroy Place. He said the retaining wall and stairs of this property are located in the Borough right-of-way and Mr. Stasi is the contractor that is going to replace the wall and sidewalk in this area out of the Borough right-of-way and is here tonight to ask if the work could be done through the supervision of the Building Department or does he have to go before the Planning or Zoning Board.

Mr. Stasi explained the project stating that the retaining wall is in the Borough right-of-way and the property owner wants to eliminate the retaining wall and just have grass ending at the Borough right-of-way.

Mayor McKenna said the improvements to the property look great and does not see why he would have to go to one of the Boards and said the Governing Body would add a resolution to the agenda approving the project.

Marine Park Improvements

Mr. Sickels said that Mr. Whelan just wants to update us on this project and said that we have received a grant from the New Jersey Department of Environmental Protection for \$1.2 million dollars for bulkhead improvements.

Councilman Murphy said that we would be scheduling a public hearing at the next available Council Meeting in order to apply to Monmouth County for an Open Space Grant for additional funding to put toward this project.

Councilman Bifani asked if we would have a set of plans.

Mr. Whelan said that we would have the application and all of the plans before the next meeting.

Councilwoman Beck asked if we have a final figure for the cost of the project.

Mr. Whelan said that they are still working on it because it is a very intricate bulkhead and needs further inspections.

Councilwoman Beck asked if we would proceed if the project came in much higher than we had estimated.

Mr. Sickels said that this is just the public hearing to submit the application for the grant to Monmouth County. He said this is not a decision to spend money but just to hold the public hearing and that any spending would require the Governing Body to adopt a bond ordinance.

Councilman Murphy said that all of the information would be available before the next meeting and that if anyone wanted copies of the previous agreements they should contact him.

Les Gertrude Apartments

Mr. Sickels reported that he had received numerous calls from various Members of the Governing Body regarding the elevator problems at Les Gertrude Apartments and said that he had met with the Department of Community Affairs and their technical staff trying to resolve the problems with the elevator and hopes to resolve the problem soon.

Municipal Parking Fund

Councilman Curley said that over the last four to five years that he has been serving on the Planning and Zoning Boards there is a question by the public about the Municipal Parking Fund. He said that these are funds that are paid to the Borough by developers for parking shortfalls and last night at the Planning Board meeting there was an applicant that offered and was accepted by the Board to pay more than what was required by the ordinance and that he personally views this as legalized extortion. He also said that we are bringing cars into the Borough and that we do not have enough parking spaces but are charging and this has become an accepted practice that has to be reviewed by the Governing Body and we should put an end to the policy.

Mayor McKenna asked Councilman Curley if he had discussed this with the Planning Board last night.

Councilman Curley said that it came up at a couple of hearings.

Mayor McKenna said that it would be appropriate for the Planning Board to discuss this and once they come up with a recommendation it would be discussed by the Governing Body and we would make a decision on how we wanted to act. He said that he strongly disagrees that it is legalized extortion and that due to the nature of a lot of the buildings that we have in our town there are buildings all over the place that cannot provide parking and only in the event that their parking requirements change is when they are required to make a contribution to the fund. He said the appropriate forum would be for it to be discussed at the Planning Board level and then they would make a recommendation to the Members of the Governing Body.

Councilman Curley said that it was discussed at the Planning Board level and that not all of the Members of the Planning Board agreed with him and that is why he is bringing this forth as the Council Liaison and that he sees it as a real problem because people can come in and get anything they want and pay for it and it is causing a tremendous problem with overdevelopment and that we should put an end to the policy.

Mayor McKenna said that this is a gross mischaracterization of what happens at the Planning Board and he is familiar with a number of applications that have been turned down as a result of parking shortages and that he strongly disagrees with him and that a recommendation should come from the Planning Board.

Councilwoman Beck said that just because the applicant makes a contribution to the Parking Utility does not mean the Planning Board has to accept the project.

Mayor McKenna said that this is correct.

Councilwoman Beck asked if the Planning Board could reject the application because of a parking deficiency.

Mayor McKenna said that has been done a number of times.

Councilwoman Beck said that the bigger issue is that we have a lot of very intense projects coming to town that have significant parking deficiencies and that these projects are being approved. She also said that she could see an applicant paying for a parking deficiency if they were short just a few spots but thinks that a lot of projects are being approved that have very intense uses without enough parking.

Mayor McKenna said that he is not familiar with what she is speaking of and asked for an example.

Councilman Curley said the Union House is a good example.

Mayor McKenna said that the Union House has not been approved by the Planning Board and is still being discussed.

Councilman Curley said that it has not been approved but it is before the Board now and they have offered to contribute to the fund.

Mayor McKenna said that Councilman Curley is a Planning Board member and he should not be discussing the application at this level.

Councilman Curley said that the Mayor asked for an example.

Mayor McKenna said he asked Councilwoman Beck what she was talking about because he is not aware of any large projects that have been approved without meeting the parking requirements and gave examples of the PRC Group project, the Hovnanian project and the Two River Theatre.

Councilwoman Beck said that Buona Sera was approved with a 97 space parking deficiency and paid nothing into the parking deficiency fund.

Mayor McKenna said this was approved 8 or 9 years ago.

Councilwoman Beck said that it was re-approved for expansion a year and a half ago.

Mayor McKenna said that the Planning Board should discuss this and thinks if there is an amendment to the ordinance it should emanate from a recommendation from the Planning Board.

APPROVAL OF MINUTES – August 24, 2004

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

ROLL CALL:

AYES: Beck, Bifani, Murphy, Curley

NAYS: None

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

MAYORAL APPOINTMENTS

REPORTS OF MAYOR AND COUNCIL MEMBERS

Councilwoman Beck reported that the Environmental Commission still has a number of questions about the clean-up next to the Locust Avenue Nature Area and would like the request tabled until the next meeting and said they would be working at the Nature Area this weekend putting wood chips on the path and said they would be starting at 10 a.m. on Saturday and are looking for volunteers to help them. She also reported that the Shade Tree Commission met last week furthering the Forrest Management Plan and suggested that the Shade Tree Commission get involved with the Corinthian Cove project next to the Library because there seems to be questions about removing the trees on their property. She also reported that the Code Enforcement Department has issued summonses for violations at 19 Waverly Place and 189-191 Maple Avenue and said that she had received calls about someone running a construction company out of 109 Hudson Avenue and the Code Enforcement Department is dealing with these properties and that we should see improvements at these properties.

Councilman Murphy reported that the Red Bank Senior Center had sponsored a Senior Prom and that there were about 120 people there and that they had a great time and said he wanted to thank the schools that were involved and said they supplied great talent for the prom. He commended Mrs. Terry and Mr. Evans for doing a great job. He also reported that RiverCenter would be holding their annual Tree Lighting, featuring Holiday Express, on November 26, 2005 at 7 p.m. at the intersection of Broad Street and Canal Street. He also reported that there is a letter on everyone's desk from RiverCenter asking that they be allowed to paint artwork on the electrical boxes because now there is a lot of graffiti on them.

Councilman Curley said that the poster contest sponsored by the Human Relations Commission has been completed and that they had a meeting this Wednesday and that he would have an update about the winners at the next meeting. He also said that he would like to thank RiverCenter, the Parks and Recreation Committee and Pam Hughes for participating in the contest.

COMMUNICATIONS AND PETITIONS

Mayor McKenna read a request from R.W. at Bellhaven Commons, LLC to permit vista cleaning to be conducted under the supervision of the Borough Arborist at the Bellhaven Nature Area.

Ms. Beck offered a motion to table the request, seconded by Mr. Murphy.

ROLL CALL:

AYES: Beck, Bifani, Murphy, Curley

NAYS: None

There being four ayes and no nays, the request was declared tabled.

Mayor McKenna read a request from Hamilton Jewelers for use of the sidewalk/public right-of-way spaces in front of their store located at 19 Broad Street on Friday, December 10, 2004 for valet parking services between the hours of 5 p.m. to 11 p.m., pending approval by the Special Events Committee and Chief Fitzgerald.

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

ROLL CALL:

AYES: Beck, Bifani, Murphy, Curley

NAYS: None

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

Mayor McKenna read a request from RiverCenter to paint murals on vandalized traffic signal boxes at the intersections of Front Street and Broad Street and Monmouth Street and Broad Street.

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

ROLL CALL:

AYES: Beck, Bifani, Murphy, Curley

NAYS: None

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

Mayor McKenna read a request from The Two Rivers Antiques Show & Garden Tour Committee to hang a 3'x15' banner on the outside of the Red Bank Armory & Ice Complex from May 12, 2005 to June 12, 2005 to advertise their event.

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

ROLL CALL:

AYES: Beck, Bifani, Murphy, Curley

NAYS: None

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

Mayor McKenna read requests from Jersey Shore Jazz & Blues Foundation for raffle licenses.

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

ROLL CALL:

AYES: Beck, Bifani, Murphy, Curley

NAYS: None

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

ORDINANCES – First Reading

2004-45 Mayor McKenna read “AN ORDINANCE OF THE BOROUGH OF RED BANK, MONMOUTH COUNTY, AMENDING CHAPTER II “ADMINISTRATION” OF THE REVISED GENERAL ORDINANCES.”

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

ROLL CALL:

AYES: Beck, Bifani, Murphy, Curley

NAYS: None

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

Public hearing and final adoption scheduled for December 14, 2004.

ORDINANCES – Public Hearing and Final Adoption

2004-43 Mayor McKenna read “AN ORDINANCE AMENDING CHAPTER VIII “PARKING LOTS AND HANDICAPPED PARKING SPACES”, SUBSECTION 8-2.8 “RESTRICTED PARKING” OF THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF RED BANK.”

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

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

ROLL CALL:

AYES: Beck, Bifani, Murphy, Curley

NAYS: None

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

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

ROLL CALL:

AYES: Beck, Bifani, Murphy, Curley

NAYS: None

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

2004-44 Mayor McKenna read “AN ORDINANCE AMENDING ORDINANCE NO. 2002-14 CREATING A HISTORIC PRESERVATION COMMISSION FOR THE BOROUGH OF RED BANK, MONMOUTH COUNTY, NEW JERSEY.”

Mayor McKenna 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. Beck.

ROLL CALL:

AYES: Beck, Bifani, Murphy

NAYS: None

ABSTAIN: Curley

There being three ayes, no nays and one abstention, the public hearing was declared closed.

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

ROLL CALL:

AYES: Beck, Bifani, Murphy

NAYS: None

ABSTAIN: Curley

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

RESOLUTIONS

04-283 Mayor McKenna read “A RESOLUTION OF THE BOROUGH OF RED BANK, MONMOUTH COUNTY, NEW JERSEY AUTHORIZING TRANSFER OF FUNDS.”

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

ROLL CALL:

AYES: Beck, Bifani, Murphy, Curley

NAYS: None

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

04-284 Mayor McKenna read “A RESOLUTION OF THE BOROUGH OF RED BANK, MONMOUTH COUNTY, NEW JERSEY RELEASING PERFORMANCE GUARANTEE REGARDING BLOCK 97, LOTS 11.03 AND 19.03 COMMONLY KNOWN AS 162-168 NEWMAN SPRINGS ROAD.”

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

ROLL CALL:

AYES: Beck, Bifani, Murphy, Curley

NAYS: None

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

04-285 Mayor McKenna read “A RESOLUTION OF THE BOROUGH OF RED BANK, COUNTY OF MONMOUTH, AUTHORIZING AGREEMENT WITH INTERFAITH NEIGHBROS, INC. FOR 2005 NUTRITION PROGRAM FOR RED BANK SENIOR CENTER.”

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

ROLL CALL:

AYES: Beck, Bifani, Murphy, Curley

NAYS: None

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

04-286 Mayor McKenna read “A RESOLUTION OF THE BOROUGH OF RED BANK, COUNTY OF MONMOUTH, NEW JERSEY AMENDING AGREEMENT WITH SPECIAL COUNSEL REGARDING VARIOUS LEGAL PROCEEDINGS RELATING TO FORMER POLICE OFFICER.”

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

ROLL CALL:

AYES: Beck, Bifani, Murphy, Curley

NAYS: None

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

04-287 Mayor McKenna read “A RESOLUTION OF THE BOROUGH OF RED BANK, COUNTY OF MONMOUTH, NEW JERSEY AWARDING CHANGE ORDER NO. 1 (FINAL) REGARDING COUNT BASIE PARK SOD AND IRRIGATION REPLACEMENT PROJECT.”

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

ROLL CALL:

AYES: Beck, Bifani, Murphy, Curley

NAYS: None

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

04-288 Mayor McKenna read “A RESOLUTION OF THE BOROUGH OF RED BANK, MONMOUTH COUNTY, NEW JERSEY AUTHORIZING TAX APPEAL SETTLEMENT REGARDING BLOCK 110, LOT 6 AND COMMONLY KNOWN AS 297 SPRING STREET, RED BANK, MONMOUTH COUNTY.”

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

Councilwoman Beck said that she thought this project was built as condominiums and now the owner is renting the units as apartments and asked Mr. O’Connor if this is why we are changing the assessment.

Mr. O’Connor said that this project was approved for condominiums but the developer that applied for the project sold the development rights because he was sick and the new developer built them as apartments and when he found out how much it was going to cost to go to the Department of Community Affairs for approval to sell them as condominiums he decided to rent them out as apartments. He said there was a mix up in the Tax Assessor’s Office because he did not know these were built as apartments and assessed them as condominiums. He said this agreement is a compromise because the assessment is much higher than it would be if they were assessed as apartments but lower than it would be if they were assessed as condominiums.

Mayor McKenna said that if the apartments were sold as condominiums the assessment would be changed to reflect the change.

ROLL CALL:

AYES: Beck, Bifani, Murphy, Curley

NAYS: None

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

04-289 Mayor McKenna read “A RESOLUTION OF THE BOROUGH OF RED BANK, COUNTY OF MONMOUTH, NEW JERSEY AUTHORIZING INSTALLATION OF A MONITORING WELL IN GENERAL AREA OF INTERSECTION OF SHREWSBURY AVENUE AND NEWMAN SPRINGS ROAD.”

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

ROLL CALL:

AYES: Beck, Murphy, Curley

NAYS: None

ABSTAIN: Bifani

There being three ayes, no nays and one abstention, the resolution was declared approved.

04-290 Mayor McKenna read “A RESOLUTION OF THE BOROUGH OF RED BANK, MONMOUTH COUNTY, NEW JERSEY AUTHORIZING REMOVAL OF STRUCTURES ALONG THE RIGHT-OF-WAY OF BROAD STREET AND LEROY PLACE AND DESIGNATED AS BLOCK 103, LOT 13.02.”

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

ROLL CALL:

AYES: Beck, Bifani, Murphy, Curley

NAYS: None

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

PROCLAMATIONS

PAYMENT OF VOUCHERS

04-291 Mayor McKenna read “A RESOLUTION FOR PAYMENT OF BILLS AMOUNTING TO \$1,254,712.84.”

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

ROLL CALL:

AYES: Beck, Menna, Murphy, Curley

NAYS: None

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

OLD BUSINESS

NEW BUSINESS

AUDIENCE

David Prown – 44 Hillside Place – said that there was a Basketball Tournament held between all of the schools in Red Bank and said it was very successful and that the kids had a great time.

Steve Fitzpatrick – Chestnut Street – said he read an article in a local paper about an individual receiving a parking ticket for \$38 and said the amount is high and he asked where the money went.

Mayor McKenna said that he had received telephone calls from a number of individuals commenting on the increased amount of the tickets and said that he called other towns similar to Red Bank and found out other towns charged much more.

Mr. Sickels said that all of the employees from the Parking Utility attended seminars about dealing with the public and customer service.

EXECUTIVE SESSION

04-292 The Attorney read a resolution to adjourn to executive session to discuss pending and potential litigation, contract negotiations and personnel.

Mr. Murphy offered a motion, seconded by Mr. Curley to adjourn to executive session to discuss pending and potential litigation, contract negotiations and personnel. Minutes to be made public in 180 days.

ROLL CALL:

AYES: Beck, Menna, Murphy, Curley

NAYS: None

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

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

ROLL CALL:

AYES: Beck, Menna, Murphy, Curley

NAYS: None

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

ADJOURNMENT

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

ROLL CALL:

AYES: Beck, Menna, Murphy, Curley

NAYS: None

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

Respectfully submitted,

Carol A. Vivona