

**MINUTES
REGULAR MEETING
MUNICIPAL COUNCIL – BOROUGH OF RED BANK
DECEMBER 23, 2004
11:30 A.M.**

PLEDGE OF ALLEGIANCE

ROLL CALL

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

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

ABSENT: Councilman Bifani.

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.

SUSPEND REGULAR ORDER OF BUSINESS

Mr. Curley offered a motion to suspend the regular order of business, seconded by Mr. Menna.

ROLL CALL:

AYES: Beck, Hintelmann, Menna, Murphy, Curley

NAYS: None

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

Police Presentation to Councilman Hintelmann

Chief Fitzgerald said that the Red Bank Police Department would like to present Councilman Hintelmann with a plaque upon his retirement from Council honoring him for serving as a Councilman for 30 years and as Police Commissioner for the last 15 years. He also said it was a pleasure and an honor to work with him.

P.B.A. President Michael Furlong also presented a plaque made by the members of the P.B.A. honoring Councilman Hintelmann for serving as Police Commissioner.

Councilman Hintelmann thanked all of the members of the Red Bank Police Department for the plaques and said that he never interfered with the operation of the Department because he knew that it was one of the best run Police Departments in the State. He said that it was a pleasure to work with the Department and that he will miss everyone.

2005 Monmouth County Open Space Grant Program Public Hearing

George Whelan said that the Borough would like to apply for a grant for the reconstruction of the Marine Park bulkhead and reconstruction to the marina and start the Riverwalk project and has received a New Jersey Department of Environmental Protection Shore Protection Program Grant for \$1,225,650 for repair to the bulkhead and said that the grant does not allow for any engineering costs. He said that the marina at Marine Park is totally deteriorated and we would be amending our previous application that was submitted on November 5, 2004 to apply to the County for the maximum amount allowable of \$250,000 for the reconstruction of the Marine Park Marina. He said we would be reconstructing the bulkhead with the grant from the New Jersey Department of Environmental Protection Shore Protection Program and would like to apply the grant being submitted to the County to renovate the existing marina at the time of construction of the new bulkhead. He said the improvements would include new slip pedestals, lighting, electric service upgrade, site lighting, new water service, new floating dock and gangway, timber breakwater and tie-off piles, decorative security fencing and remote security cameras connected to the Police Department. He also said the Borough has secured the right-of-way for all but five parcels for a project known as Riverwalk that would extend from Marine Park west to the Oyster Pointe and that this proposed project received the 1998 Monmouth County Planning Board Planning Merit Award and the application would also include the first phase of Riverwalk from the Marine Park Marina to the Monmouth Boat Club. He said these improvements would include a new brick paver's walkway,

decorative benches and trash receptacles, decorative lighting fixtures and site landscaping. He said the preliminary total cost of the Marina Improvements without investigating the bulkhead would be approximately \$714,100 to the Borough and the preliminary cost of the bulkhead repair would be \$940,000 if we were successful and received the maximum grant for \$250,000 from the County we could proceed with all of the work to the marina and work to the bulkhead for a total cost to the Borough of approximately \$1,068,000. He said the cost could vary after investigative work is started on the bulkhead.

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

Wayne Deutscher – Commodore of the Monmouth Boat Club – asked if anything would be done about the sewer pump in this area. He said that when an extreme high tide comes in it breaks the circuits in the Boat Club and they had to call the Police Department to call Public Works to come and fix the problem. He said they had a private party one night and the toilets did not work until they called the Police and corrected the problem.

Mr. Whelan said this is the first time we are hearing about this problem and said that there was a lot of work done to this area a few months ago.

Councilman Murphy said this area was renovated six months ago and asked what area the pump station served.

Mr. Whelan said it services Irwin's Marina, Marine Park and the Monmouth Boat Club.

Mayor McKenna asked Mr. Deutscher if this was the only time it happened.

Mr. Deutscher said that it only happened once.

Mr. Whelan said he would look at this location and see what the problem is.

Rich VanHemman – 189 Cambridge Avenue – Fair Haven – asked if kayakers would be able to use the floating dock or if access would be blocked by the security fence.

Councilman Murphy said that it would be behind the fence but perhaps he could make arrangements with the Parks and Recreation Department to use the facility.

Councilwoman Beck also said there would be a facility for kayakers at the new park at the end of Locust Avenue.

Mayor McKenna said that this is a much needed project and asked if anyone else from the public would like to speak, no one appearing he closed the public hearing.

Councilwoman Beck said the total cost of the project is 1 million dollars and she would like to ask the Chief Financial Officer to prepare a schedule of all of the debt and capital expenses the Borough is going to incur over the next year and how it is going to effect our debt service over the next five years because of the budget cap and the other capital projects that we are talking about in town. She said she would like to have a comprehensive picture of our finances and said we might have to do the Marine Park improvements in phases if we do not have the financial means.

Councilman Murphy said he had our Chief Financial Officer do this before the meeting and would make sure Councilwoman Beck received a copy of this.

Councilwoman Beck asked if it was a meeting of the Parks and Recreation Council Committee and asked why she was not invited to attend.

Mr. Sickels said that it was a meeting in preparation of the application for the grant and the Chief Financial Officer was called up to the meeting to answer some questions and that it was not a scheduled meeting of the Parks and Recreation Council Committee.

Councilwoman Beck said she thought it is a much needed project for Marine Park but thinks the Council Committee should have met and should know what is going on with the debt service before we commit to the project because there are other projects in the Borough that have to be done.

Mayor McKenna said that he thought everyone was reviewing the debt service and that he does it at least three or four times a year and asked the Chief Financial Officer to give an updated summary of the debt service to all the Members of the Governing Body.

Councilman Murphy said that he would schedule a meeting of the Parks and Recreation Council Committee to discuss the project and the financing because the park really needs maintenance.

Councilman Menna said that it should also be discussed with the Finance Committee.

RESUME REGULAR ORDER OF BUSINESS

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

ROLL CALL:

AYES: Beck, Hintelmann, Menna, Murphy, Curley

NAYS: None

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

WORKSHOP

Traffic on Tower Hill Avenue and Irving Place

Councilman Curley asked that Councilman Bifani schedule a meeting of the Public Works Council Committee to discuss the traffic calming on these streets because he has received letters from residents that are waiting for something to be done on those streets and they have not heard anything from the Borough.

Mayor McKenna suggested he speak to Councilman Bifani and set up a meeting.

APPROVAL OF MINUTES – September 28, 2004

October 12, 2004

Mr. Hintelmann offered a motion to approve the minutes, seconded by Ms. Beck.

ROLL CALL:

AYES: Beck, Hintelmann, Menna, Murphy, Curley

NAYS: None

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

MAYORAL APPOINTMENTS

REPORTS OF MAYOR AND COUNCIL MEMBERS

Councilwoman Beck said that she had received word from Mr. Watson that Public Works was having problems with the equipment getting stuck at the Locust Avenue Nature Area while trying to put down wood chips and that this project might have to be postponed until the spring. She also reported that the Code Enforcement Committee had met and that they are reviewing the contract with the Monmouth Regional Health Commission for renewal and that they would be adjusting some of the fees next year.

COMMUNICATIONS AND PETITIONS

Mayor McKenna read requests from Prevention First, Inc. and Two River Theatre Company for raffle licenses.

Mr. Menna offered a motion to approve the requests, seconded by Mr. Hintelmann.

ROLL CALL:

AYES: Beck, Hintelmann, Menna, Murphy, Curley

NAYS: None

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

ORDINANCES – First Reading

ORDINANCES – Public Hearing and Final Adoption

2004-46 Mayor McKenna read “AN ORDINANCE OF THE BOROUGH OF RED BANK, MONMOUTH COUNTY AMENDING CHAPTER III “POLICE REGULATIONS” OF THE GENERAL ORDINANCES.”

Mr. Sickels contacted Councilman Bifani and put him on his cell phone with the speaker on so he could participate in the meeting for this ordinance only.

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. Hintelmann.

ROLL CALL:

AYES: Beck, Hintelmann, Menna, Bifani, Murphy, Curley

NAYS: None

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

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

Councilman Menna said that he believes this ordinance violates the first amendment and is misplaced. He said that he does not think we should legislate what is obscene and the Courts can not even agree on what is obscene. He said we have become the leader in Monmouth County because of our rebirth but now have become the laughing stock. He gave examples of famous artwork and said that if we had those statues in the Borough we would have to cover certain areas on them and that if he is offended by something in the store he does not shop there anymore.

Councilman Murphy asked Councilman Menna if he had seen the display in a store on Shrewsbury Avenue.

Councilman Menna said that he had not.

Mayor McKenna said that he should.

Councilman Murphy said that he disagrees with Councilman Menna because we have a chance to change the ordinance and make it right because the obscene display is at a store on the corner where children wait at the bus stop and it is not fair to the children of the Westside of Red Bank to be subject to the display and said that if it was on Broad Street it would not be allowed to be displayed and that the Borough has invested a lot of time improving the area and the residents of the Westside should not be subject to this obscenity.

Councilman Menna said that he still thinks we could legislate it in other ways instead of trying to define it and questioned if it were legally defensible.

Mayor McKenna suggested that he look at the State Statute because that is where it came from.

Councilman Murphy said he spoke to the Chief of Police and he said that he had received numerous complaints from residents in the area and is recommending that the Governing Body change the ordinance because if we do not we can only go so far with enforcement of displaying pornography until we adopt this ordinance. He also said that he does not care what other towns are doing or if they are laughing at us because we invested a lot of time trying to improve this area and he wants to protect the residents of our town and thinks it is a step backwards.

Councilman Curley said that we cannot restrict the sale or view of pornography to someone that is of age but can restrict the display of it where children could see it and does not see it as infringement on anyone's rights. He said that we should adopt the ordinance to protect our children.

Mayor McKenna said that this ordinance was promulgated by our Chief of Police because he had received numerous complaints from parents about pornographic material being displayed in a store window on Shrewsbury Avenue and he feels strongly that our children should not be exposed to the type of material that is displayed in the store window. He said the reason this state statute was passed is so municipalities could do something to protect our children from viewing these types of displays and we are not restricting the sale of this type of merchandise but monitoring the display of these items and if we can do something about this we should.

Councilwoman Beck asked if our ordinance is similar to ordinances that were adopted by other municipalities.

Mayor McKenna said he did not know. He also said we have to comply with the law and allow merchants to sell pornography but we can govern how it is displayed.

Councilmen Murphy and Hintelmann urged the Members of the Governing Body to adopt the ordinance because children should not be able to see pornography.

Mayor McKenna said that Councilman Bifani was participating in this debate over the phone and asked him what his vote was.

Councilman Bifani said that he was in favor of adopting the ordinance.

ROLL CALL:

AYES: Beck, Hintelmann, Bifani, Murphy, Curley

NAYS: Menna

There being five ayes and one nay, the ordinance was declared adopted on final reading.

2004-47 Mayor McKenna read "AN ORDINANCE OF THE BOROUGH OF RED BANK, MONMOUTH COUNTY AMENDING CHAPTER XXV "PLANNING AND DEVELOPMENT REGULATIONS" OF THE REVISED GENERAL ORDINANCES."

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 Mr. Curley.

ROLL CALL:

AYES: Beck, Hintelmann, Menna, Murphy, Curley

NAYS: None

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

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

ROLL CALL:

AYES: Beck, Hintelmann, Menna, Murphy, Curley

NAYS: None

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

RESOLUTIONS

04-305 Mayor McKenna read "A RESOLUTION AUTHORIZING TRANSFER OF FUNDS."

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

ROLL CALL:

AYES: Beck, Hintelmann, Menna, Murphy, Curley

NAYS: None

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

04-306 Mayor McKenna read "A RESOLUTION OF THE BOROUGH OF RED BANK, COUNTY OF MONMOUTH, NEW JERSEY REGARDING 2005 ORGANIZATION MEETING OF THE GOVERNING BODY."

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

ROLL CALL:

AYES: Beck, Hintelmann, Menna, Murphy, Curley

NAYS: None

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

04-307 Mayor McKenna read “A RESOLUTION OF THE BOROUGH OF RED BANK, COUNTY OF MONMOUTH, NEW JERSEY AWARDING CHANGE ORDER NO. 1 (FINAL) REGARDING THE SHREWSBURY AVENUE IMPROVEMENTS – PHASE III PROJECT.”

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

ROLL CALL:

AYES: Beck, Hintelmann, Menna, Murphy, Curley

NAYS: None

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

04-308 Mayor McKenna read “A RESOLUTION OF THE BOROUGH OF RED BANK, COUNTY OF MONMOUTH, AUTHORIZING CONTRACT #04-9 PUBLIC UTILITIES UNIFORM SUPPLY & LAUNDRY SERVICE.”

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

ROLL CALL:

AYES: Beck, Hintelmann, Menna, Murphy, Curley

NAYS: None

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

04-309 Mayor McKenna read “A RESOLUTION AMENDING APPLICATION TO THE COUNTY OF MONMOUTH FOR OPEN SPACE TRUST FUNDS.”

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

ROLL CALL:

AYES: Beck, Hintelmann, Menna, Murphy, Curley

NAYS: None

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

04-310 Mayor McKenna read “A RESOLUTION OF THE BOROUGH OF RED BANK, COUNTY OF MONMOUTH, AWARDING PURCHASE UNDER STATE CONTRACT.”

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

ROLL CALL:

AYES: Beck, Hintelmann, Menna, Murphy, Curley

NAYS: None

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

04-311 Mayor McKenna read “A RESOLUTION OF THE BOROUGH OF RED BANK, MONMOUTH COUNTY, NEW JERSEY AUTHORIZING PARTICIPATION IN THE HEALTH BENEFITS PLANS OF THE BOROUGH FOR PERSONS COVERED UNDER THE DOMESTIC PARTNERSHIP ACT.”

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

ROLL CALL:

AYES: Beck, Hintelmann, Menna, Murphy, Curley

NAYS: None

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

PROCLAMATIONS

PAYMENT OF VOUCHERS

04-312 Mayor McKenna read “A RESOLUTION FOR PAYMENT OF BILLS AMOUNTING TO \$436,410.28.”

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

ROLL CALL:

AYES: Beck, Hintelmann, Menna, Murphy, Curley

NAYS: None

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

OLD BUSINESS

Councilwoman Beck asked if the Wayfinding project had been completed.

Mr. Sickels said that we had hired an individual to write the historic text and this has to be reviewed.

NEW BUSINESS

AUDIENCE

Trisha Rumola and Harriet Cook – 20 Broad Street – presented Councilman Hintelmann with a present from RiverCenter and said everyone would miss him upon his retirement.

Councilman Hintelmann thanked them and said that he had always supported RiverCenter.

Wayne Deuscher – 65 Winding Way – Commodore of the Monmouth Boat Club presented a check for \$5,000 to the Borough because the Monmouth Boat Club is designated as an historic site and does not pay taxes and receives services from the Borough.

Mayor McKenna thanked him for the check.

Mayor McKenna asked Maureen and Nancy Hintelmann to join Councilman Hintelmann on the dais and said that this is a bittersweet moment and wanted to thank and commend Councilman Hintelmann for serving as Councilman for 30 years and said everyone would miss him.

The Members of the Governing Body also thanked and commended him and said they would miss him.

Councilman Hintelmann thanked the Members of the Governing Body for their kind words and also thanked the residents of the Borough for supporting him for 30 years.

EXECUTIVE SESSION

ADJOURNMENT

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

ROLL CALL:

AYES: Beck, Hintelmann, Menna, Murphy, Curley

NAYS: None

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

Respectfully submitted,

Carol A. Vivona