

Borough of Tenafly

MAYOR AND COUNCIL

MINUTES

TUESDAY, OCTOBER 22, 2013

PRESENT: Mayor Peter Rustin and Council members Anthony Barzelatto, Barry Honig, Martha Kerge, Nadia LaMastra, Jon Warms, and Mark Zinna

ABSENT: None

ALSO PRESENT: Borough Administrator Jewel Thompson-Chin
Borough Attorney William R. McClure

At 8:02 p.m. Mayor Rustin read the Open Public Meetings Act Statement: "In compliance with the Open Public Meetings Act P.L. 1975, chapter 231, the notice requirements have been satisfied. Meeting dates for the year are listed in the Annual Agenda; copies are sent to the Record, Suburbanite, and Northern Valley News and posted on the bulletin board in the lobby of the Municipal Center. "

The Salute to the Flag was led by Mayor Peter Rustin.

Motion by C. Warms, second by C. Kerge, with C. Honig and C. LaMastra abstaining from the September 3, 2013 Closed Session, and all other members voting in favor,

BE IT RESOLVED that the Minutes of the September 3, 2013 Work Session, September 3, 2013 Closed Session (not to be released), September 3, 2013 Regular Meeting, September 10, 2013 Regular Meeting, September 24, 2013 Work Session, September 24, 2013 Regular Meeting, October 8, 2013 Work Session, October 8, 2013 Special Meeting, October 8, 2013 Closed Session (not to be released) are approved.

REVISIONS TO AGENDA:

None.

PROCLAMATIONS:

Mayor Rustin read two proclamations, one honoring the memory of United States Master Sergeant Nicholas Oresko who was the oldest living Medal of Honor recipient and the other honoring Police Officer Matthew Savitsky who recently returned from his deployment to Afghanistan. Mayor Rustin commented that Mr. Oresko was a keynote speaker at past Memorial Day celebrations and based upon Mayor Rustin's request to lower the flag in Tenafly, the Governor ordered that the flag be lowered throughout the State in his memory.

AUDIENCE REMARKS FOR AGENDA ITEMS:

David Simpson, 12 Woodland Park Drive, criticized the fact that the September 10th Public Meeting minutes have not been made available to the public.

Gerald Nigro, 5 Stonybrook Drive, questioned when the minutes will be available to the public.

Mayor Rustin advised that the minutes were approved this evening and will be posted to the website tomorrow.

CONSENT AGENDA:

#R13-356/Approve Expenditures as of October 16, 2013

#R13-357/Authorize Release of Performance Bond and Refund of Escrows –
County Tiger, LLC

#R13-358/Authorize Street Opening Bond Refunds

#R13-359/Authorize Refund of Escrow – Tenafly Associates, LLC

#R13-360/Authorize Refund of Escrow – BMW of Tenafly

#R13-361/Award Contract – DPW Sweeper – Trius, Inc.

#R13-362/Authorize Renewal of Plenary Retail Distribution License – 0261-44-014-005

#R13-363/Authorize Refunds – Recreation Programs – Various

#R13-364/Authorize Refunds – Recreation – Fingerprints

- #R13-365/Approve Developer's Agreement - Hudson Tenafly LLC/Barbara and Norman Dorf
- #R13-366/Authorize Bond and Escrow Refunds – Evan-Chen
- #R13-367/Authorize Tree Mitigation Escrow Refund – Sibstroy Investment
- #R13-368/Authorize Tree Mitigation Escrow Refund – Barrett Contracting
- #R13-369/Authorize Tree Mitigation Escrow Refund – Tadmor
- #R13-370/Amend 2013 Meeting Schedule – October 29, 2013
- #R13-371/Approve Outdoor Seating Permit – Fresh Tortilla
- #R13-372/Authorize Refunds – Tax Court Judgments

Motion by C. Warms, second by C. Kerge that the Consent Agenda be approved.

On a roll call, the vote on the Consent Agenda was recorded as follows:

C. Barzelatto:	aye	C. LaMastra:	aye, #R13-365 abstain
C. Honig:	aye	C. Warms:	aye
C. Kerge:	aye	C. Zinna:	aye

All members present voting in favor, the Consent Agenda was approved.

PUBLIC HEARINGS

ORDINANCES 13-20 & 13-21:

The Borough Clerk read into the record:

The following ordinances published herewith was first read by title only on September 3, 2013, and posted on the bulletin board of the lobby of the municipal center.

ORDINANCE NO. 13-20 - AN ORDINANCE TO AMEND AND SUPPLEMENT CHAPTER 35 OF THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF TENAFLY, ENTITLED "LAND DEVELOPMENT REGULATIONS" AND MORE PARTICULARLY: AMENDING SECTION 35-801 "ZONE DISTRICTS"; SCHEDULE A – "SCHEDULE OF PERMITTED USES"; AND SCHEDULE C – OFF STREET PARKING REQUIREMENTS SCHEDULE.

ORDINANCE NO. 13-21 - AN ORDINANCE AMENDING CHAPTER 35 OF THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF TENAFLY, ENTITLED "LAND DEVELOPMENT REGULATIONS" AND MORE PARTICULARLY: AMENDING CHAPTER 35-201 ENTITLED "TERMS DEFINED"; AMENDING CHAPTER 35-509 ENTITLED "PUBLICATION OF DECISION"; AND AMENDING CHAPTER 35-604 ENTITLED "TECHNICAL REVIEW ESCROW DEPOSITS".

Public Comments on Ordinance 13-20 and 13-21

Sylvia Myerson, 133 Kent Road, advised that 40 years ago the Blankman Tract had been zoned for O, open space, and no development was to take place. She questioned whether the permissible uses had been changed on this land since then. She finished by expressing her opinion that it is a disgrace that Tenafly has not protected its land or trees.

Mayor Rustin advised that this ordinance only changes the name of the zone and is not a change of use.

Borough Attorney McClure advised that the permitted uses have not changed within that zone since 1961. As most of the uses are public uses, the Planning Board has recommended that the name of the zone be changed from O to P for convenience.

Gerald Nigro, 5 Stonybrook Road, inquired whether it is now a permitted use to serve food and beverage in this zone.

Borough Attorney McClure responded that the principle permitted uses have not changed, only the name, and for-profit activities are not permitted.

Motion by C. Kerge, second by C. Barzelatto that Ordinances 13-20 and 13-21 be passed on second and final reading and are hereby adopted and notice of same shall be published according to law.

C. LaMastra questioned what this ordinance is amending with regard to the fees on page 3.

Mayor Rustin responded that the fee was not covering the cost for the Planning Board Attorney and Engineer.

C. Honig commented that although he will be voting to approve this ordinance, he does not believe that businesses changing from a permitted use to another permitted use should have to go before the Planning Board.

On a roll call, the vote was recorded as follows:

C. Barzelatto:	aye	C. LaMastra:	aye
C. Honig:	aye	C. Warms:	aye
C. Kerge:	aye	C. Zinna:	aye

COMMITTEE REPORTS:

Councilwoman Kerge

The Library Board met last evening. The book sale was very successful. The Friends of the Library has a renewed interest. Concerts have been planned for next year. They are hoping to have a family evening at the Library in February and an adult evening in June. They would like to hold more events where the community can come together and learn what the Library can offer.

Councilman Warms

No report.

Councilwoman LaMastra

The BID met last night. There was a meeting with developers and property owners regarding the four lots that are for sale on County Road and Hillside Avenue. Due to the traffic pattern, none of the developers showed an interest in developing the property as one lot. A representative from Stop and Shop was present and as their new lease requires them to renovate, the BID is looking to pinpoint a timeframe for said renovation.

Councilman Barzelatto

The Office of Emergency Management is looking to start a Citizen Emergency Response Team (CERT) by the end of this year and will be meeting with emergency services to obtain their approval. Citizens will come together and will, with the supervision of Emergency Management, be able to help different agencies in the event of a disaster.

Mayor Rustin

Mayor Rustin advised that he received from Governor Christie the flag that was flown over the World Trade Center and he has given it to the Fire Department to be included as part of the 9/11 Memorial.

Councilman Zinna

The AFA Committee met on October 16th. The Borough Engineer was in attendance and gave a presentation on the Froggy Park accessibility renovations. The cost is \$88,000, with half being funded from County Open Space and the rest coming from the capital budget. The contract will need to be signed by December 31st in order for the installation to be done at no cost. Borough Administrator Thompson-Chin advised that the Borough Engineer will be providing a letter giving his recommendation for awarding the project as well as a financial picture.

Councilman Honig

The Nature Center met a week ago. The new TNC President, Tony Martin, was installed. Mike Neus stepped down in order to focus on fundraising for the new center. There was discussion about Pfister's Pond and instituting a plan that would have vegetation on floating islands to suck up the oxygen and kill off plants, the cost for which will be \$100,000. C. Honig asked that a discussion about

using open space funds for this purpose be listed on the next work session agenda.

Joint Use met on October 15th to discuss the funding and timing for the installation of the lights and turf at Geissinger Field. There will be language in the agreement that sets the terms for the Borough's usage of the field and how the project will be funded.

Councilwoman LaMastra

The BID would like to give their banner presentation at the November 26th Work Session. The BID newsletter will be sent to business and property owners in the next two weeks.

OLD BUSINESS:
Solid Waste Collection Service

Council discussed the options of curbside versus rear-yard collection. Borough Administrator Thompson-Chin advised that there were 3 curbside options, two of them relating to twice weekly pickup and the other providing the option of twice weekly during the summer and once weekly during the winter and fall. The majority of Council agreed that the impact on tax savings would not be significant enough to warrant a reduction in services and decided to retain rear-yard collection. Borough Administrator Thompson-Chin recommended opting for the three-year contract and as she is receiving mixed reviews after conducting reference checks, suggested that Council invite the low bidder to attend the November 7th Work Session prior to making the final award. C. Honig questioned whether terms can be placed within the contract to protect against concerns raised in the complaints received by the Borough Administrator. Borough Attorney McClure responded that there are standard of performance provisions that can be placed within the contract and advised that this matter should be discussed in Closed Session.

NEW BUSINESS:

Introduction of Ordinances

C. LaMastra moved to introduce and pass on first reading Ordinances 13-25 and 13-26 on first reading and setting November 12, 2013 at 8:00 p.m. or as soon thereafter as the matter can be heard as the date and time and the Council Chambers of the Tenafly Municipal Center as the place for a hearing on said ordinances. Seconded by C. Warms:

The Borough Clerk read the ordinances into the record:

ORDINANCE NO. 13-25 - AN ORDINANCE TO CREATE SECTION 21-5, ENTITLED "LIGHTNING SAFETY POLICY" UNDER CHAPTER XXI OF THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF TENAFLY ENTITLED "PARKS, PLAYGROUNDS AND RECREATION AREAS"

ORDINANCE NO. 13-26 - AN ORDINANCE TO CREATE SECTION 13-16 OF CHAPTER III BOROUGH REGULATIONS, ENTITLED "AN ORDINANCE REGULATING SMOKING IN AND UPON PUBLIC BUILDINGS AND PUBLIC PROPERTIES", AND CREATING SECTION J. OF CHAPTER XXI PARKS, PLAYGROUNDS AND RECREATION AREAS ENTITLED "SMOKING PROHIBITED" OF THE OF THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF TENAFLY

C. Honig noted that it was discussed whether Ordinance 13-26 would apply to the schools and it was agreed by Borough Attorney McClure and the Board of Education attorney that the law does allow for the Borough ordinance to apply to Board of Education buildings and property.

On a roll call, the vote on Ordinances 13-25 and 13-26 was recorded as follows:

C. Barzelatto:	aye	C. LaMastra:	aye
C. Honig:	aye	C. Warms:	aye
C. Kerge:	aye	C. Zinna:	aye

AUDIENCE REMARKS FOR NON-AGENDA ITEMS:

Alvin Myerson, 133 Kent Road, expressed his criticism that a 24-year lease was entered into with the Tenaflly Nature Center to build and cut down trees on land that was meant to be kept pristine in perpetuity. He asked that the opponents to the proposed center be given the same rights as the Nature Center to be seen, heard, and understood.

James Coyle, 14 Kenwood Road, advised that he is a member of the Environmental Commission and expressed his opinion that a committee should be formed to discuss the use of the Open Space Trust. He noted that the Environmental Commission voted unanimously against spending these funds in this manner and advised that the EPA has indicated that they do not support turf fields.

Borough Attorney McClure advised that this particular use falls within the scope of the primary purpose and explained that legislation defines the term acquiring as attaining a right lesser than ownership which can include leasing and licensing.

Mark Feldman, 133 Lylewood Drive, advised that a petition calling for the repeal of Ordinance 13-24 and asking for a referendum was submitted to the Borough Clerk containing 900 signatures. He further advised that as of last Wednesday, they have now obtained 1,270 names and urged Council to take the time to look at the overwhelming outpouring of public opposition.

Borough Clerk Aportela-Hernandez is to provide copies of the original petitions to Council.

C. Honig advised that he has asked that a discussion regarding a referendum be placed on the November 7th Work Session agenda. He noted that if he were to support a referendum, the wording would have to be very clear and based on the facts that have been presented to the governing body.

Christine Evron, 39 Leroy Street, asked Council to consider increasing the commingle trash collection to once a week and reduce the number of regular trash pickup days during the winter, spring, and fall.

Bill Kelly, 24 Midwood Road, criticized the quality of the audio in the meeting room as well as the purposes for which the open space funds are being used.

Borough Clerk Aportela-Hernandez advised that there is a listening device available to assist those who are having trouble hearing. Mayor Rustin asked that Borough Clerk Aportela-Hernandez look into having additional speakers installed in the Council Chambers.

Sylvia Myerson, 133 Kent, advised that she tried hearing device and it did not work.

Ernest Kollitides, 164 E. Clinton Avenue, voiced his criticism of the acoustics in the room and asked Council to reconsider having a referendum on the Nature Center project.

Myrna Block, 161 Tekening Drive, explained that residents feel that something underhanded is going on in terms of the Nature Center project and asked that there be a referendum presenting all of the issues.

C. Honig expressed his view that the only discussion that should be had this evening is about the location as he does not believe anything untoward is taking place.

Mayor Rustin remarked that it is comments such as those that make people not want to run for public office.

David Simpson, 12 Woodland Park Drive, believes that it is wrong of Council to be so dismissive of these economies when it comes to garbage collection. He thanked Council for reading the proclamation honoring Nicholas Orescko. He expressed his criticism of the process that has been followed thus far in the Nature Center project as he does not believe that it has been democratic, questions have been answered, or enough oversight has been exercised.

C. Zinna noted that the Nature Center has had plans on their website for months and have provided 600 pages worth of discussion on the questions and concerns that have been raised thus far.

Mayor Rustin advised that the plans that are referred to in the lease are the conceptual plans and stated that when specific plans are available, they will have to go before the Planning Board and Mayor and Council.

Wendy Donn Podos, Knoll Road, advised that one of the incentives for purchasing her home was the amount of forest land in Tenafly and expressed her opinion that this issue deserves a referendum.

Gerald Nigro, 5 Stonybrook Drive, advised that Save the Tenafly Green Acres' architect and engineer have prepared a schematic drawing showing that the building can be built at the present site or an adjacent site and asked that this group be afforded the same amount of advertising in the newsletter to make a formal presentation to community.

Edythe Kornfeld, 258 Highwood Avenue, noted that the intent of purchasing this land in the 70s was that no development would take place on that property and expressed that if the building can be placed on Hudson Avenue, then that is where it should be built.

Melvin Esrig, 43 Royden Road, advised that he is the Civil Engineer referred to by Gerald Nigro. He explained that there is a flat area that is South of the existing site and the problems of subsurface and rock are very much minimized, allowing for a 2-story building to be placed there which would lead to significant savings.

Ernest Kollitides, 164 E. Clinton Avenue, believes that the number of signatures on the petition to repeal Ordinance 13-24 should be taken very seriously.

MAYOR'S REMARKS:

Mayor Rustin commented that there will eventually be a plan presented with specific costs and the funds would have to be in the bank or bonded prior to the project commencing. He expressed his concern that opinions are being taken as fact.

ADJOURNMENT:

As there was no further business to come before the Council, on a motion by C. LaMastra, second by C. Zinna, and unanimously carried, to adjourn this meeting. The meeting was adjourned at 10:12 p.m.

Respectfully submitted,

Lissette Aportela-Hernandez, MPA, RMC
Borough Clerk