

# Borough of Tenafly

## MAYOR AND COUNCIL

### MINUTES

**TUESDAY, SEPTEMBER 24, 2013**

PRESENT: Mayor Peter Rustin and Council members Anthony Barzelatto (arrived at 9:33 p.m.), 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 8:38 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 Press and posted on the bulletin board in the lobby of the Municipal Center. Notice of this meeting by the September 11, 2013 Sunshine Notice has been sent to the Record, the Suburbanite, and Northern Valley Press and has been posted on the public bulletin board in the lobby of the Municipal Center."

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

#### REVISIONS TO AGENDA:

Borough Attorney McClure advised that Resolution #R13-353/Authorize Execution for Provision of Electrical Services from a Reverse Energy Auction is being added to the Consent Agenda, Resolution #R13-347/Authorize Refund – Post Judgment Interest – Steinberger is being removed from the agenda, and Resolution #R13-349/ Authorize Sale of Surplus Property – GovDeals.com is being amended to remove the lot of bicycles from Appendix A.

#### RECOGNITION OF BOY SCOUT TROOP 25 & TROOP 86

Mayor Rustin advised that Boy Scout Troops 25 and 86 were a part of a Northern New Jersey Council of approximately 350 scouts who attended the 2013 National Scout Jamboree in July. They performed a day of service at the Cherry River Elementary School during which they helped bring gravel to the walking track, painted signs and benches, and performed work around a pavilion. Mayor Rustin asked that each member present stand to be recognized and read a proclamation honoring each troop for their service.

#### CONSENT AGENDA

**#R13-330/**Approve Expenditures as of September 18, 2013

**#R13-331/**Authorize Issuance of Purchase Order – Parent Door Hardware – ADA Accessible Doors – Tenafly Community Center

**#R13-332/**Authorize Tree Mitigation Escrow Refund – 144 Oxford Drive

**#R13-333/**Authorize Tree Mitigation Escrow Refund – 31 Dogwood Lane

**#R13-334/**Authorize Tree Mitigation Escrow Refund – 16 Woodmere Lane

**#R13-335/**Authorize Tree Mitigation Escrow Refund – 32 Lylewood Drive

**#R13-336/**Authorize Construction and Soil Moving Escrow Refund – 35 Oak Avenue

**#R13-337/**Authorize Tree Mitigation Escrow Refund – 48 Depeyster Avenue

**#R13-338/**Authorize Execution of 2013 CDBG Grant Agreement – Rehabilitation of Senior Center Project.

**#R13-339/**Authorize Refund – Overpayment of Taxes – Corelogic

**#R13-340/**Authorize Refunds – Recreation Programs – Various

**#R13-341/**Authorize Refund – Overpayment of Taxes – Goldstein

**#R13-342/**Authorize Refund – Overpayment of Taxes – Ryan

**#R13-343/**Authorize Refund – County Tax Board Judgments

**#R13-344/**Authorize Refund – Tax Court Judgments

**#R13-345/**Authorize Refunds – Recreation - Fingerprints

**#R13-346/**Authorize Additional Engineering Services - Design of the 2013 Bergen County Curb Ramp Program

**#R13-347/**Authorize Refund – Post Judgment Interest – Steinberger *Removed from Agenda*

#R13-348/Approve Shared Service Agreement with Paramus – Maintenance and Repair of Fire Department Vehicles  
 #R13-349/Authorize Sale of Surplus Property – GovDeals.com  
 #R13-350/Approve Outdoor Seating Permit – Cactus Sushi  
 #R13-351/Approve Raffle Applications – 1061-1063  
 #R13-352/Authorize Community Action Services to Prepare Affordable Housing Sales and Affordable Housing Rental Manuals for Submission to NJ DCA  
 #R13-353/Authorize Execution for Provision of Electrical Services from a Reverse Energy Auction

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

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

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

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

**PUBLIC HEARINGS**

**ORDINANCES 13-17, 13-18, and 13-19:**

The Borough Clerk read into the record:

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

ORDINANCE NO. 13-17 - AN ORDINANCE AMENDING CHAPTER II, SECTION 2-45.1 OF THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF TENAFLY

ORDINANCE NO. 13-18 - AN ORDINANCE TO AMEND CHAPTER VII OF THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF TENAFLY, ENTITLED “TRAFFIC”

ORDINANCE NO. 13-19 - AN ORDINANCE AMENDING CHAPTER XIX, SECTION 19-2 ENTITLED “MANDATORY RECYCLING”.

Public Comments on Ordinances 13-17, 13-18, and 13-19

None.

Motion by C. LaMastra, second by C. Zinna that Ordinances 13-17, 13-18, and 13-19 be passed on second and final reading and are hereby adopted and notice of same shall be published according to law.

C. LaMastra questioned how those affected by the traffic changes outlined in Ordinance 13-18 would be notified. Borough Administrator Thompson-Chin advised that a Code Red call can be placed specifically to the affected residents.

C. LaMastra noted that Ordinance 13-19 allows for the recycling of rigid plastics.

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

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

**ORDINANCES 13-22, 13-23, and 13-24:**

The Borough Clerk read into the record:

The following ordinances published herewith were first read by title only on September 10, 2013, and posted on the bulletin board of the lobby of the municipal center.

ORDINANCE NO. 13-22 - A CAPITAL ORDINANCE APPROPRIATING THE SUM OF \$85,550 FOR BASKETBALL COURT IMPROVEMENTS TO BE UNDERTAKEN BY THE BOROUGH OF

TENAFLY AND TO APPROPRIATE \$85,550 FROM A BERGEN COUNTY OPEN SPACE GRANT

ORDINANCE NO. 13-23 - AN ORDINANCE APPROPRIATING \$885,000 FROM THE MUNICIPAL OPEN SPACE, RECREATION, AND HISTORIC PRESERVATION TRUST FUND OF THE BOROUGH OF TENAFLY

ORDINANCE NO. 13-24 - AN ORDINANCE AUTHORIZING THE EXECUTION AND GRANTING OF A LEASE TO THE TENAFLY NATURE CENTER ASSOCIATION, INCORPORATED.

Public Comments on Ordinance 13-22

None.

Motion by C. Warms, second by C. LaMastra that Ordinance 13-22 be passed on second and final reading and are hereby adopted and notice of same shall be published according to law.

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

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

Mayor Rustin advised that they would be conducting the Public Hearing and vote on Ordinance 13-24 first.

Public Comments on Ordinance 13-24

Risa Rosenberg, Newcomb Road, member of the Nature Center Board of Trustees, explained that the lease is substantially the same as the lease previously approved last year; changes have been made to comply with requirements of Green Acres as well as to incorporate benefits to the Borough. She noted that if they are unable to build the new building on the proposed site for any reason, the lease will revert back to a 5-year lease. She also pointed out that approval for any construction is limited to the 2 acre site and if there are any changes, the Nature Center would have to go back to the governing body and possibly Green Acres for approval. She further advised that once the new building is completed, the Nature Center proposes that the existing site would be returned to nature.

Mayor Rustin announced that Council is not approving the construction of the new center tonight, but rather, the lease is the only thing being approved and it is contingent on building the center.

Alvin Myerson, Kent Road, noted that although the Nature Center proposes to build on 2 acres, the original application included 15.2 acres. He questioned why a change in location is being proposed when it has been confirmed that the current site is suitable and asked that the building not be permitted on the Blankman Tract.

David Simpson, 12 Woodland Park Drive, called the procedure that has been followed Stalinist. He expressed his criticism of the lease as he believes it subjects the Borough to liability and does not require that the Nature Center provide proof that they have the financial capability to take on this project. He noted that the laws regarding bonding only apply to projects using public funds.

Borough Attorney McClure responded that the lease is based on the Local Lands and Building Act, a different statute than that to which Mr. Simpson referred, and this statute requires that funds have to be demonstrated to be available. He further advised that the building will belong to the municipality as it will be affixed to public property. He explained that the Nature Center is required to comply with all state, federal and local laws.

Joey Dweck, 45 Churchill Road, expressed his opinion that Council has not thought about the environmental impact that this project will have and asked that they rethink the entire project.

Mark Aronson, 220 Buckingham Road, urged Council to take their time in making this decision and asked that the ordinance be tabled. He expressed his disappointment that both sites have not been presented as he had previously requested.

Carolyn Nolinsky, Knickerbocker Road, advised that she is a student at Tenafly High School and cares a tremendous amount about the environment. She does not feel that the current site is suitable to learn and believes that this project will help many students.

Ruth Burstein, 140 Thatcher Road, noted that a drawing of the proposed building on Hudson Avenue had been presented at a dinner several years ago. She stated that she is not against improving the building but is against the proposed location and requested that the vote be postponed.

Mayor Rustin responded that he was at that same dinner/dance and confirmed that there were some preliminary plans to build the new center on top of Hudson Avenue. He suggested that the Nature Center explain why they changed the location from Hudson Avenue to Clinton Avenue.

Mark Dronge, 33 Kenwood Road, expressed that he is outraged by the prospect of digging up virgin land and destroying trees. He stated that he does not understand why there has not been a referendum.

Paul Keyes, Cortlandt Place, expressed his opinion that the proposed site is incredible for environmental education and believes that this vote is an opportunity to bring something tremendously important to this community. He expressed his hope that Council supports this project and votes yes to extend the lease.

Judy Aronson, 220 Buckingham Road, echoed support for the importance of education for the environment, but stated that she believes that education can take place anywhere when you have creative educators and a creative use of resources. She asked that the Nature Center continue to explore building on the existing site.

Nancy Wolinsky, member of the Nature Center Board of Trustees, advised that the Nature Center has presented information to the best of their ability, but does not believe that the people present tonight are interested in listening. She expressed her opinion that their opposition is due to the proposed location being close to where they live, not in the spirit of conservation. She advised that she has been called names and cursed at by people in opposition and believes them to be a group of malcontented, rabid people.

Thomas Jacobs, 66 Magnolia Avenue, expressed his belief that the intent of purchasing this property in the 1970s was for it to remain woods for Tenafly's children and grandchildren. He stated that everyone present loves the Nature Center and supports a new facility, but believes it should and can be built at the top of Hudson Avenue at a substantially lower cost.

Ann Guillory, 235 Buckingham Road, advised that she lives directly across street from the proposed site and believes that traffic and drainage problems may result. She expressed her opinion that technology is way that people will be educated in future, not in a building.

Bruce Balsam, Surrey lane, member of the Nature Center Board of Trustees, noted that with limited space, a very tight schedule, and a great demand for programs at the Nature Center, it makes it very difficult to reschedule when weather conditions don't permit outdoor activities. He commented on the dedication of those involved to have this project comply with all the laws and requirements.

Gerald Nigro, 5 Stonybrook Road, remarked that trees and ecosystems will be annihilated by building in the proposed location. He requested that Council demand that professional studies be made available to the public prior to approving lease. He finished by asking for a referendum.

Bill Kelly, 24 Midwood Road, noted that a thorough environmental assessment required by the federal government still has not been provided. He questioned why the Hudson Avenue site is not being considered as the infrastructure is already there and temporary trailers can be used during construction.

Andrew Mikesh, 50 Sherwood Road, commented that trees will also need to be destroyed if expansion were to take place at the current site. He pointed out that the Nature Center proposes to reforest the old site once construction is complete. He advised that the closest neighbor that could be affected by runoff is the JCC and there have been no complaints from them to date.

Mark Feldman, 133 Lylewood Drive, commented that there is false urgency in the need to vote to extend this lease and asked that the decision be deferred until more detailed information about this project has been presented.

Sean Callahan, 120 Christie Street, explained that communities change as needs change and he feels it is the role of Council to recognize those changes. He expressed his opinion that the Nature Center is there for the children and to deny them an enhanced opportunity to learn is a shortsighted way of thinking.

Val Block, 21 Brook Road, expressed his opinion that there should be a referendum to decide this issue.

Randy Parmer, 54 Oak Avenue, stated that he feels as though a contract is being broken with the citizens who voted to preserve this land in the 1970s and believes that the citizens should have the right to vote again through a referendum.

Max Basch, 148 Magnolia Avenue, requested that the vote be postponed and the residents be allowed to have a voice in what is done with this land.

Richard White, 20 Hodskin Place, expressed that he is against this project as he believes it should be constructed on Borough property rather than the Green Acres property. He expressed his concern that the Borough will ultimately be financially liable.

Bob Reardon, 78 Magnolia Avenue, advised that there is a consensus that a new facility is needed and the education that comes from the Nature Center is vitally important. He raised concerns about whether there will be the infrastructure to absorb the large capacity of future visitors who will treat the Nature Center as a recreational park.

Don Kornfeld, 258 Highwood Avenue, commented that the proposed location will make the Nature Center less accessible to the residents of Tenafly and does not believe the center should be built to be more accessible to those who come from afar.

Douglas Murray, Norman place, noted that a forest is a dynamic organism and expressed his belief that creating openings in the forest would be a benefit to wildlife.

Steve Savas, 40 S. Park Drive, stated that this structure is necessary but believes that a promise was made to the citizens of Tenafly that building would not take place on this tract of land. He asked for a referendum.

Mike Neus, 330 Engle Street, President of the Board of Trustees, remarked that the Nature Center is looking to preserve open space by educating children. He explained how the Nature Center was formed and the way in which this tract of land was purchased. He noted that the federal government has endorsed this project and it has been confirmed as a permitted use. As the building was not a part of original application, they needed to reapply. He advised that the reasons for the change in location are documented in the 600 pages available on the Nature Center website, but indicated that the steepness of Hudson Avenue would require blasting and bulldozing and would obstruct the view of Pfister's Pond. He advised that they plan to keep pavilion and parking lot for those who love Pfister's Pond and will be returning the rest of the current site to nature.

#### Council Discussion

C. Honig requested that the lease be modified to include language requiring that there be absolute assurance of the Nature Center's financial wherewithal prior to construction commencing. Borough Attorney McClure advised that Section 6 would need to be amended to include additional language and as this change would not be considered substantial, it would not require republication and the ordinance can still be adopted this evening. Council agreed to include the additional language.

C. Honig advised that he is supporting this project and applauded the people who originally donated to save this tract of land. He believes that the new center will benefit many generations, allowing people into the land and helping them to love the land. He does not believe that traffic will be drastically affected by placing the building on E. Clinton Avenue. He commended the Nature Center Board for their dedication and sincerity.

C. Warms commented that he supports this project. He noted that he has listened to the comments that have been made and believes that what is being planned is an appropriate building. He read a quote from Mayor Manos in a *NY Times* article in which he advised that this property was being acquired so that it would remain undeveloped, which C. Warms interpreted to mean that the land was being purchased to avoid construction of mixed use, high density buildings and an antiballistic missile site. He stated that he believes that by extending the lease, they will be allowing for conservation and education to continue into the future.

C. Kerge remarked that she does not feel that anything should ever diminish the efforts and sacrifice of those who worked to ensure that the Nature Center would continue into the future with the purchase of the additional Green Acres land. She expressed her opinion that the proposed building will take the land further into the future with deeper meaning and future generations will thank today's citizens for this contribution.

Motion by C. Honig, second by C. Zinna that Ordinance 13-24 be amended to include the following language in Section 6:

Without limiting any stricter requirements imposed by applicable federal, state, and/or local laws, regulations, and/or ordinances, no construction of the Education and Discovery Center shall be commenced unless and until the Tenafly Nature Center Association provides the Governing Body with adequate assurance that sufficient funds are available to complete the construction.

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

Motion by C. Warms, second by C. Honig that Ordinance 13-24 be passed as amended on second and final reading and are hereby adopted and notice of same shall be published according to law.

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

#### Public Comments on Ordinance 13-23

Joe Lavin, 99 Gordon Avenue, Chair of the Environmental Commission, advised that the Environmental Commission unanimously, with one abstention, passed a resolution that open space funds should be used for acquisition of land and not be used for any improvements at Geissinger Field.

Fred Robbins, 91 Sunset Lane, asked that this issue be put to a referendum. He pointed out that Overpeck Park is nearby and has a similar facility that can be rented. He then cited his reasons for being opposed to this proposal including overburdening Roosevelt Common, increased traffic, noise, litter, night lighting affecting the neighborhood, and devaluing of property in the area.

Linda Ballan, Delany Place, raised concerns about the quality of life of those who live in vicinity. She advised that she is more opposed to the lighting than the turf. She questioned why there is the need for Council to approve this expenditure when the Board of Education has already agreed to use their funds.

Andrew Mikesh, 50 Sherwood Road, expressed his opinion that these funds should be used for the whole community instead of saving the Board of Education a year.

Jim Coyle, 14 Kenwood Road, member of the Environmental Commission, advised that the Environmental Commission was not consulted on this issue but noted that the enabling ordinance indicates that issues such as these should be brought to the Environmental Commission.

Jeffrey Miller, Leroy Street, stated that although he would like to see the turf installed, he does not believe that open space funds should be used for this purpose. He noted that there are at least 4 properties that are contiguous to Borough property that should be considered for use of these funds. He also pointed out that he does not believe that the ordinance permits open space funds to be used on property that is not Borough-owned.

Sandy Divack Moss, 4 Westervelt Avenue, former Chair of the Environmental Commission, commented that the primary purpose of the open space funds is for the acquisition of land. As the Environmental Commission was consulted when a moratorium on the collection of the open space tax was being considered, she questioned why the Environmental Commission was not consulted on this issue. She advised that the Environmental Commission has documented other potential lands that could be acquired.

Richard White, 20 Hodskin Place, asked Council if they would be happy if this project was taking place near where they live.

Max Basch, 148 Magnolia Avenue, expressed his disbelief that Council would approve this ordinance when the Environmental Commission is opposed and the funds are not being used for the purpose for which they were designated. He suggested that Council allow the Board of Education to place this expense in their budget.

#### Council Discussion

C. LaMastra and C. Honig expressed concern that the discussion about open space that is scheduled for the next work session should take place prior to adopting this ordinance. C. Honig questioned whether it would be a clear violation of the open space ordinance to appropriate this money to Geissinger Field. Borough Attorney McClure responded that this ordinance is not a violation as the wording of the referendum and statutory authority clearly allow this type of acquisition. C. Honig advised that his objections also stem from the fact that there is not a concrete agreement with the terms clearly spelled out at this time. Both members urged Council to either table this ordinance or vote no. The majority of Council agreed that the field would be a beneficial use to the community as the project will be completed regardless of whether Council allocates these funds, the money is already available, and there is the need for additional field space. C. LaMastra noted that there are no funds at the state or county level and if a property were to become available in the future, Green Acres cannot be relied upon. If Council would want to continue to fund this trust, there would need to be another referendum and she remarked that it would be questionable if the referendum would be successful. C. Honig reminded Council that the Board of Education will have the capability to fund this project on its own in a year.

Motion by C. Zinna, second by C. Warms that Ordinance 13-23 be passed on second and final reading and are hereby adopted and notice of same shall be published according to law.

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

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

#### PUBLIC COMMENTS:

No one came forward.

#### COMMITTEE REPORTS:

Council deferred this portion of the agenda to the October 22<sup>nd</sup> Public Meeting.

#### NEW BUSINESS:

2013 Best Practices Inventory

Council confirmed that they were in receipt and has reviewed the Borough's responses to the questions on the 2013 Best Practices Inventory. Mayor Rustin advised that the Borough is in good standing, having received an 84% score.

#### MAYOR'S REMARKS:

None.

#### ADJOURNMENT:

As there was no further business to come before the Council, on a motion by C. Honig, second by C. Kerge, and unanimously carried, to adjourn this meeting. The meeting was adjourned at 11:22 p.m.

Respectfully submitted,

Lissette Aportela-Hernandez, MPA, RMC  
Borough Clerk