

# Borough of Tenafly

MAYOR AND COUNCIL

COMMITTEE OF THE WHOLE

MINUTES

THURSDAY, NOVEMBER 7, 2013

At 7:34 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 confirmed at the Annual Meeting, are posted on the public bulletin board in the lobby of the Municipal Center, published in the Record within the first 10 days of the New Year, and copies are sent to the Suburbanite and Northern Valley Press."

Present: Mayor Peter S. Rustin

Council members: Anthony Barzelatto, Barry Honig, Martha Kerge, Nadia LaMastra, Jon Warms, Mark Zinna

Borough Administrator: Jewel Thompson-Chin

Borough Attorney: William R. McClure, Esq.

Absent: None.

Mayor Rustin prefaced the meeting by advising the public that this meeting is a work session and the issue of the Nature Center is listed under For the Good of the Order. There will only be a discussion as no decisions will be made and no action will be taken. He informed the public that there cannot be a special election because state statutes that clearly define the issues that authorize a special election. If the governing body chooses to move forward with a referendum, the earliest that the question can be placed on the ballot is in November 2014. Furthermore, the issue does not meet the definition of a binding referendum.

## **PUBLIC COMMENT:**

Mayor Rustin read the following statement:

Public Comments: A total of 15 minutes has been allocated for this purpose. Citizens are welcome to address the Mayor and Council on any governmental item of concern to them, whether or not it is scheduled on the agenda below. Citizens must give their names and addresses when recognized to speak. Large groups are urged to select someone to represent them. The public is advised that these meetings are recorded and are subject to the Open Public Records Act.

Walter Kosman – 31 Woodmere Lane – requested that a crosswalk be installed from Roosevelt Common leading to ambulance garage on Riveredge Road. Mayor Rustin noted that this issue was discussed previously and the former Police Chief responded that the area is not proper place for a crosswalk due to the curvature of road. He requested that the Borough Administrator ask Chief Chamberlain to look at the area again and provide a written recommendation, as well as to consider installing signage for kids to use the crosswalks.

Council-Elect Max Basch – stated that he and Mr. Park were elected with a mandate concerning Geissinger Field and the Tenafly Nature Center. He requested that Council not take any additional actions until he and his colleague are sworn in.

Mark Feldman – 133 Lylewood Drive – asked what specific statute addresses a special election. Mrs. Aportela-Hernandez responded that while NJSA 19 is the elections title of the state statutes, special elections are addressed in other state statutes, such as title 40, 40A, and 49. She further noted that in addition to the aforementioned citations, other titles address referendum matters, such as title 5, 11, and 33, as well as case law.

Michael Neus – Nature Center Trustee – explained that as part of the application to the National Park Service and LWCF, the Nature Center will request the federal authorities to compare the East Clinton Avenue and Hudson Avenue sites. They expect to send the application in the next 1 to 2 months and expect to receive a response by the end of the first quarter of 2014. They are also seeking confirmation from NJ Green Acres on their recommendation. Upon receipt of the documents, the Nature Center will provide them to Council and the general public. C. Honig inquired if in the dual study, will there be a formal engineering, hydrology, and wetlands report in

comparing the 2 sites. Mr. Neus responded that a wetlands evaluation is required and there will be a formal wetlands review at Hudson Avenue site. They study will evaluate runoff, soil impact, endangered species, and the neighborhoods in both locations.

David Simpson – 12 Woodland Park Drive – questioned where the hard data to be evaluated was located. Mr. Neus confirmed that all documents are on the Nature Center website.

Mark Feldman – 133 Lylewood Drive – commented that the petition obtained over 1600 names and the group will solicit more names. The group believes that on Hudson Avenue there are sites other than what's next to Pfister's Pond can be built. He stated that the Council needs to spend Borough funds to get to the bottom of feasibility of site.

Gerald nigro – 5 Stonybrook Road – stated that he expects Council to engage the professionals obtained by Save Tenafly Green Acres that reported 2 sites at the top of Hudson Avenue feasible for the new Nature Center building.

Ernest Kollitides – 164 East Clinton Avenue – advised that he was appalled that decisions are being made without consulting the Borough Engineer.

Mayor Rustin expressed his amazement at the comments made as no decisions have been made because formal plans have not been provided. If and when the Nature Center comes with formal plans, the Borough Engineer will get involved and if comes before the Planning Board, the Planning Board Engineer will get involved. Right now the only discussion is the placement of the facility. He confirmed that the lease agreement is contingent on the Nature Center raising the required funds for the project and providing official building plans to the Borough.

C. Honig stated that he was interested to hear proposal from Maser to conduct a hydrology study of both sites. However, if such a study were done, would the dispute end?

## **TO BE CONSIDERED**

### **Site Plan Waiver Process – Discussion with Construction Official, Bob Byrnes.**

Mr. Byrnes explained that when application comes in to occupy a commercial structure, it is reviewed for zoning and if the proposed application is a permitted use. Then the application is evaluated for the prior use of the site. If it is the same use, then the application moves forward. If there are two different uses, the applicant needs to go before the Planning Board to obtain a waiver via resolution and then the application is reevaluated for zoning. He recommended that if an application is going from one permitted use to another, to let the matter be handled by a zoning officer instead of referring it to the Planning Board.

Mayor Rustin noted that the Planning Board is prepared to accept the change if Council moves forward.

Mr. McClure asked under what circumstances a permitted use application would be referred to the Planning Board for site plan waiver. Mr. Byrnes replied that it would be referred to the Planning Board if the applicant is proposing changes to property or to expand the building to suit their needs.

Mrs. Aportela-Hernandez advised that due to the Council meeting schedule and the time frame associated with a zoning ordinance, this amendment cannot be enacted this year. Council authorized the Borough Attorney to prepare the ordinance for introduction in January.

### **Solid Waste Collection Bid – Discussion with Gary Giordano, President and John F. Chiaia, Esq. – legal representative of Joseph Smentkowski, Inc.**

Mr. Chiaia explained that his client services many towns, train their employees, and cares for properties as if they were his own. They submit 60-70 bids annually and have not been challenged anywhere else.

Mr. Giordano explained that the company is a third generation, family-owned business. They service 24 towns. 42 towns bring their recycling to their facility in Jersey City. They have over 150 trucks for garbage service in New Jersey alone.

In response to questions posed by Council, Mr. Giordano advised that they do provide rear yard service, have picked up yard debris as part of the garbage contract, are not involved in contract disputes and have not been assessed damages or penalties. He described that every truck has a GPS unit installed, a supervisor is either in town or in the area when pick-ups are being made, and employees are retained from a leasing company. He explained that there is a learning curve during the first 3 weeks, but the town has been mapped and surveyed. The fleet is complaint with all state DOT and DEP regulations and is diesel retrofitted. He noted that his company just started servicing Dumont last month since the prior hauler was asked to leave. Customer service representatives are

available from 9-4 to handle issues including damage reports. He also provides his personal cell phone for contact. They will pick up at the public schools as per the bid specs.

### **FOR THE GOOD OF THE ORDER**

#### **Save Tenafly Green Acres Petition for Referendum (C. Honig)**

C. Honig stated that he is supportive of a referendum if there is a clear discussion on the language of referendum to state the facts and what will be done with the results of the referendum. He knows there will be a spirited debate, but hopes that it's not divisive. There needs to be a conclusion to this matter and has offered to be part of a committee to craft the language.

Mayor Rustin explained that the consensus of Council appreciates the results of the election, but is concerned if the division will not disappear. He agreed with C. Honig that there has to be a conclusion based on what happens with the referendum and that there needs to be a committee prepare an interpretive statement.

C. Zinna commented that he feels the issue has become much too divisive for the Council to unilaterally decide. He has spoken with residents with differing opinions on the issue, but the consistent theme was to let the community decide. The issue has to stand or fall based on where the vote lays. He recommended that the committee should consist of 2 members of Council, 2 members of Nature Center, and 2 members of preservationist committee.

C. Kerge reminded the public that the Council and public have only seen conceptual plans, not bona fide plans. The community is too divided at this point in time. The Borough cannot continue to have meetings where every meeting is used to discuss the Nature Center.

C. Barzelatto declared that this division is not healthy for the citizens of Tenafly as there are a lot of bad feelings and a lot of nasty comments. This is the time for people to speak through a referendum.

Since Michael Neus and Gerry Nigro were in the audience, Mayor Rustin requested that both groups provide a letter seeking confirmation that they will oblige with accepting the results of the referendum.

At this time Council recessed at 9:23 p.m. and resumed the work session at 9:29 p.m.

### **TO BE CONSIDERED (continued)**

#### **Recess/Reorganization Meeting & 2014 Meeting Schedule**

The Recess Meeting has been scheduled for Sunday, January 5<sup>th</sup> at 1:00 p.m., with the Reorganization Meeting to begin at 1:30 p.m. The first regular meeting in April was moved to Thursday, April 17<sup>th</sup> due to the Passover holiday. In November, due to the General election, there will be two sets of combined work session and regular meetings, scheduled for the 13<sup>th</sup> and 25<sup>th</sup>.

#### **Municipal Building Chiller Replacement**

Mrs. Thompson-Chin advised that the Cooperative from which the chiller was to be purchased cannot provide the proper documentation under the Local Public Contracts law, so the Borough must undergo traditional bid process. Funds for the replacement were allocated in the 2013 capital budget and the project is expected to be completed by March. Council authorized the Borough Administrator to have the Borough Engineer prepare the bid specs.

#### **Froggy Park – New Playground Equipment**

Council authorized the resolution for the purchase of the new playground equipment for Froggy Park for the November 12<sup>th</sup> consent agenda. Since the purchase order will be issued before the end of the year, the installation will be free.

#### **Soccer Cage Lighting – Open Space Appropriation Ordinance**

Council determined that the appropriation for the soccer cage lighting be borrowed from the open space trust fund. They determined that the open space fund can be reimbursed through the 2014 capital budget.

#### **Amendments to Street Opening Ordinance**

Mrs. Thompson-Chin noted that the Borough Engineer recommended amending the street opening ordinance so that in the case of a road opening within a roadway that has been paved within the last 8 years, an additional bond in the amount of \$1,000.00 dollars must be posted with to ensure the use of infrared technology for the final repair. The technology is a special process which binds the patch better to the street. Council authorized the Borough Attorney to prepare an amending ordinance, but reduced the time period from 8 to 6 years.

### **Geissinger Field Agreement**

Mr. McClure explained that the agreement creates Borough's interest in the field and incorporates all the amendments requested from the Joint Use meeting. Council authorized the Borough Attorney to prepare the resolution authorizing the execution of the agreement.

### **ADMINISTRATOR'S REPORT**

Mrs. Thompson-Chin reported that GASP will be providing the Borough with 100 free signs in support of our Smoke-Free Ordinance. The DPW Director and Police Chief will designate locations for the signs.

Mrs. Thompson-Chin advised that the Borough is eligible to sign an agreement with the Bergen County Utilities Authority for the disposal of waste at approximately \$65 per ton. Under the current garbage contract, the Borough is paying \$82 per ton. The bid specs for the new garbage contract noted that the Borough reserves the right to designate another disposal facility. Authorization for executing the agreement will be listed for the November 12<sup>th</sup> agenda.

### **CORRESPONDENCE**

S. Zabinski RE: False Alarm Fine Waiver Request  
Council decided to deny waiving the false alarm penalty. The Borough Clerk will advise the resident.

Bergen County Prosecutor's Office RE: Resolution Supporting the Fugitive Safe Surrender Program  
Council authorized that a resolution supporting the program be listed for the November 12<sup>th</sup> consent agenda.

Tenaflly Recreation Board RE: Geissinger Field  
Council recognized the letter submitted by the Recreation Board in support of Geissinger Field.

Tenaflly Nature Center RE: TNC Site Considerations  
Council recognized the letter submitted by the Tenaflly Nature Center regarding their consideration for the site of the proposed new center.

Lubavitch on the Palisades RE: Lag Ba'Omer Parade – 5/18/14  
Council reviewed the request for the parade and noted there may be a conflict with another event on May 18<sup>th</sup>. Mayor Rustin will reach out to Rabbi Shain.

T. Wies, The Shelter Group RE: Temporary Marketing Trailer  
Council approved the temporary trailer for 6 months upon the condition that the property is expected to be maintained in an aesthetically pleasing way and that they reserve the right to revoke permit. The signage must be approved by the zoning official. The Shelter Group is required to request an extension if they need the trailer for the full 11 months as indicated in the letter.

Tenaflly Traditional Holiday Committee RE: Crèche Display  
Council approved the annual request.

Lubavitch on the Palisades RE: Menorah Display and Annual Holiday Lighting  
Council approved the annual request.

### **RESOLUTIONS** for meeting of November 12, 2013:

- A. Approve Expenditures as of November 6, 2013
- B. Authorize Budget Transfers
- C. Authorize Tree Mitigation Escrow Refund – Lu
- D. Authorize Transfer of Funds to the Borough Tree Replacement Fund - Lee

There were no comments on the proposed resolutions.

### **OLD BUSINESS**

None.

### **FOR THE GOOD OF THE ORDER**

Fire Prevention Poster Awards – November 12<sup>th</sup>

- Mrs. Aportela-Hernandez reminded Council that the annual poster awards will be presented at the November 12<sup>th</sup> meeting.

Proposal to Designate Street Name (C. Warms)

- C. Warms suggested that the municipal oval be officially named Tenaflly Crescent which provides a geometrically accurate description and serves as a marker for GPS devices. C. LaMastra recommended a designation after Nicholas Oresko. Council authorized that the

oval be named Tenafly Crescent and the adjoining park area be named Nick Oresko Park. The Borough Attorney will draft the required documentation to implement the designation.

- C. Honig requested that a formal decision be made to obtain a proposal from the Borough Engineer to conduct a hydrology study at the East Clinton Avenue and Hudson Avenue sites. Council authorized the Borough Administrator to obtain a formal proposal from Maser Engineering to conduct the hydrology studies.

**ADJOURNMENT**

As there was no further business to come before the Council, on a motion by C. Zinna, second by C. Honig, and unanimously carried, to adjourn this meeting. The meeting was adjourned at 10:18 p.m.

Respectfully submitted,

Lissette Aportela-Hernandez, MPA, RMC  
Borough Clerk