

Borough of Tenafly

MAYOR AND COUNCIL

COMMITTEE OF THE WHOLE

MINUTES

TUESDAY, FEBRUARY 5, 2013

At 7:35 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. The 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, and published in the Record within the first 10 days of the New Year.”

Present: Mayor Peter S. Rustin

Council members: Anthony Barzelatto (arrived at 7:39 p.m.),
Barry Honig, Martha Kerge, Jon Warms, Mark
Zinna

Borough Administrator: Jewel Thompson-Chin
Borough Attorney: William R. McClure, Esq.

Absent: Council Member Nadia LaMastra

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.

Steve Green – expressed support for the special needs housing project and commended Council with moving forward.

Eileen Swift – 131 Sunset Lane – stated that 311 Tenafly Road has been an eyesore and the United Way housing project will beautify the property, meet COAH requirements and meet a need in the community. She advised that she has an adult child with mental and cognitive disabilities and requested that Council should see the project through without delay.

Johanna Gambrill – 15 Ravine Road – inquired if there is a plan to review the BID before it moves forward in another chapter and stated that the BID does not take into consideration the businesses who rent the stores.

Mayor Rustin responded that the Council review’s the BID’s budget, which should take place within the next month or so.

TO BE CONSIDERED

311 Tenafly Road – United Way

Mayor Rustin summarized that the purchase of the property would be with COAH funds and that the Borough can possibly expend an additional \$300,000 for construction using COAH funds and either forming its own nonprofit or turn over the property to the Bergen County United Way (BCUW)/Madeline.

Mr. Toronto of BCUW advised Council that the New Jersey Housing and Mortgage Finance Agency has recently receded from financing special needs projects. As a consequence, municipalities are left to own devices with financing. One can apply for county and federal programs, but there is uncertainty if HOME program will continue to exist. He suggested that the Borough become partners with the BCUW/Madeline since COAH funds are limited for specific expenditures. He proposed that the Borough allocate \$1.3 million from the COAH funds and the BCUW will allocate \$1.3 million from permanent financing for the project.

Mr. Toronto explained that if the HMFA would still be in the business of financing of special needs projects a separate non-profit would be required, which was done in Allendale and Ramsey. He noted that to create a non-profit is an ongoing expense. In this scenario the BCUW will be the only non-profit organization involved and will be responsible for management. He advised that the property will be deed restricted for the special needs purpose and that the BCUW will concede to any contractual language in addition to deed restriction.

Mayor Rustin highlighted that no tax dollars will be involved with the project and that the funding will be coming from COAH fees that have been collected by state law. He asked the Borough Attorney if language stipulating that the land be reverted back to the Borough if the project is not completed. Mr. McClure confirmed that there can be a provision that the project must be built by a certain date before deeding the property.

C. Honig stated that he supports the concept of a home for individuals with special needs, but that needs to be put aside as the Council has a fiduciary responsibility with these funds. He asked Mr. Toronto when he discovered the state funding source was depleted. Mr. Toronto responded that this past December, he was notified that HMFA will not be accepting any more funding applications for special needs projects.

C. Honig explained the history of the project and how municipalities were pressured to dedicated their COAH funds or risk having them seized by the state. He noted that the initial presentation involved the Borough purchasing the property and that a non-profit that included a member of the governing body and a community member would supervise the management of the property. He expressed that he was uncomfortable with deeding property over to another entity where all of control would be relinquished and that there would be no mechanism to ensure community or elected official involvement. He commented that now that municipalities are no longer under the threat of having the COAH funds seized, the Borough has the luxury to consider other agencies.

C. Kerge commented that she didn't think the Borough should give up right to the land and recommended a land lease instead of deeding land in its entirety to any other entity. She stated that she would like the Borough to move forward, but still be in control in some degree.

Mr. Toronto responded that Franklin Lakes had issued an RFP for a similar project where the developer will be the owner. The BCUW was one of two respondents. Mahwah is undergoing a similar process. He stated that the BCUW will be happy to create an advisory board in the contract to be part of stewardship of the program.

C. Warms reflected that this property has been under consideration for a long time for various projects and the DEP has rejected prior applications considered for the property. Now that there is a proposal that satisfies DEP requirements and provides a resource for people with special needs, the Borough should move forward. While we are not legally under pressure, this is an appropriate use for property and an appropriate use for Tenafly which should not be delayed .

C. Zinna inquired about the practical difference between a separate additional non-profit and just working with the United Way. Mr. McClure replied that the difference is negligible with regards to the membership of the non-profit. C. Zinna inquired if the land can be used differently based on the type of board. Mr. McClure responded that the restrictions are the same no matter who owns it. Mr. Toronto added that the DEP restrictions on this property limit how it can be used. Mayor Rustin asked if another agency were to use this land, would that agency have to reapply to the DEP. Mr. Toronto noted that the agency would need to reengage the DEP, but may not

necessarily need to reapply. C. Zinna asked if the project cannot be constructed, would the Borough be at risk. Mr. Toronto answered that the Borough would not be on the financial hook in either scenario.

C. Barzelatto described the Tenafly Senior Citizen Housing complex that is operated by the Lions Club and HUD and has a committee of board members that oversee the property. Based on his research, the United Way is one of the biggest non-profits and he is perplexed why the project's ability to go forward is being questioned.

Mayor Rustin explained that due to the large stake of funds, it is important for due diligence to be done.

C. Honig recommended that the Borough spend more of the COAH funds, reach out to others for the balance of the financing and set up its own non-profit with bylaws and members.

Mr. Toronto explained that there is no hidden agenda and the purpose of this concept is operating a supportive housing project. He explained that the donation of land to not for profits is common in Bergen county. Spectrum for Living is a provider but is not involved with development. The United Way has not prepared drawings yet, but has already spent \$100,000 on this project. The construction estimate is based on experience in construction in other recent projects.

C. Zinna asked about the project proposed in Fort Lee. Mr. Toronto advised that Fort Lee has about \$3 million in their COAH funds and has been actively meeting with them. In this scenario, Fort Lee will purchase the property and fully fund the construction, but BC UW/Madeline will own it.

C. Barzelatto thanked Mr. Toronto for his involvement in this process and supports proceeding with deeding the property to BC UW/Madeline. He recommended that the Borough Attorney prepare the necessary closing documents and agreements. Mr. McClure advised that the first step is to move forward with acquisition of property.

The consensus of majority of Council was to proceed with the acquisition of the property and authorizing the Borough Attorney to prepare the proper legal documents to deed the property to BC UW/Madeline.

9-11 Memorial Financing

C. Barzelatto advised that an in-house committee of the Fire Department decided that the Fire Department will proceed with fund raising for the 9-11 Memorial. They will solicit donations to cover the installation of blue stone in the amount of \$12,500; however, they are requesting that the Borough pay the \$9750 for the new bases of the bell and ring since the foundations were removed due to the construction of the Police headquarters. Mayor Rustin inquired if there was any funding left over from headquarters project. Mrs. Thompson-Chin confirmed that there was funding available for this purpose. Mayor Rustin recommended having the Borough Engineer review the proposal to make sure it is cost effective and the right way to proceed and then the Borough will contribute the balance as requested by the Fire Department. Council concurred with the recommendation.

BID Parking Subcommittee Recommendations – Presented by Robin Odabash Brown and Carol Geisenheimer

Ms. Brown informed Council that the main recommendation is to open parking spaces in lots that require commuter or employee permits after 10 a.m. with a 3 hour parking limit. Another recommendation was to remove all permitted parking for the Municipal Complex Circle and the south end of the Washington Street parking lots and relocate the employee parking to behind the Browning House, by Cooktique. Ms. Geisenheimer requested that the installation of signs to alert shoppers where they can park and that the subcommittee is seeking uniform parking restrictions for side streets outlying the business district. She noted that parking is the first step to make the area as inviting as possible for new businesses and shoppers.

Mayor Rustin advised that Council had agreed at the last work session meeting to suspend permit parking indefinitely. He also commented that the Planning Board will be presenting recommendations regarding uses to the Mayor and Council. C. Zinna

recommended that the BID should come back with a specific list of top 10 items they are seeking assistance from Council.

Ms. Geisenheimer requested that the proposed soccer cage should be relocated near the basketball courts so parking for restaurants and the martial arts studio is not affected.

Mayor Rustin recommended that the subcommittee should evaluate how the parking lot behind the CVS can be reconfigured to generate a few more space and a better means of ingress and egress. He expressed appreciation to the subcommittee for the work they have put into these recommendations.

Attorney's response to letter regarding loitering code

Mr. McClure drafted a letter in which he agrees with Mr. Paff. He has not submitted the letter yet, as he reviewed the code in greater depth than what Mr. Paff had suggested. He advised that there will be an ordinance rescinding this portion of the code at a future public meeting.

ADMINISTRATOR'S REPORT

Mrs. Thompson-Chin confirmed that the 2013 Municipal Budget was delivered to Council and the first hearing is this Thursday at 7:00 p.m. Public information regarding the meetings includes the Borough website and message board, and media outreach via press releases.

Mrs. Thompson-Chin reported that the Police swearing-in ceremony is coming together. Given the new officers, promotions and recognition of an officer serving in the military, it is more of a special event where flowers have been ordered and a notice will be sent to all Borough Hall employees encouraging them to attend. There will be a meet and greet at next week's pre-meeting. C. Barzelatto noted that the pastor from St. Terese is good friends with Officer Savitisky and would like to say a few words of encouragement. Mayor Rustin replied that the pastor can be incorporated into the evening's event.

Mrs. Thompson-Chin advised that the Borough will receive a \$21,000 grant from Cablevision for technology upgrades. The funds can only be used to purchase equipment for public educational and governmental access. An initial payment of \$7,000 was received last year and the balance is transmitted of annual payments of \$1600. Soon the total will be \$8600. Mayor Rustin recommended that the funds should be used to broadcast meetings. C. Honig noted that to broadcast meetings and stream them on the internet, the Borough will need a laptop, camera, and software. He recommended using the \$1600 annual payment to pay someone to film and stream the meetings since it is difficult to find volunteers.

Mrs. Thompson-Chin updated Council on the revised space utilization plan which was modified to make accommodations for TVAC to have temporary sleeping quarters for emergencies. She noted that Fire Department submitted a request for storage of records, which can also be accommodated.

CORRESPONDENCE

MEL RE: Resolution Opposing A-1196
Council directed the Borough Clerk to place the resolution on the February 12th agenda.

Build Your Yogurt RE: Employee Parking Permits
The request will be processed through the Borough Administrator's office.

RESOLUTIONS for meeting of February 12, 2013:

- A. Approve Expenditures as of February 8, 2013
- B. Authorize Person-to-Person Transfer - Plenary Retail Distribution Liquor License - 0261-44-014-004
- C. Authorize Tree Mitigation Escrow Refund - 131 Columbus Drive
- D. Suspend Permit Restrictions - Commuter Lots from 10am - 6pm - Monday through Saturday

E. Authorize Engineering Escrow Refund – 25 Grandview Terrace

Mrs. Aportela-Hernandez explained that the liquor license will be transferred into a pocket status and when the new owner finds a location, there will be a place-to-place transfer to remove distribution license from pocket status.

OLD BUSINESS

A. Outdoor Fitness Equipment

This item will be held for discussion at the next work session.

NEW BUSINESS

None.

FOR THE GOOD OF THE ORDER

Police Department – Meet & Greet – February 12th.

This item was discussed in the Administrator’s Report.

Mayor Rustin commented that he received resolutions regarding gun regulation from Fair Lawn and New Milford and would like the Council to consider adopting a similar type of resolution. Council directed to place a resolution using New Milford’s template on next week’s consent agenda.

Mayor Rustin reported that there was an article regarding Tenaflly resident, Harriet Tanner who is retiring as director of the Community Chest, as position she held for 23 years. The Community Chest serves Tenaflly, Englewood, and Englewood Cliffs. He will provide Council with a copy of the article and reach out to her to recognize her at a public meeting.

CLOSED SESSION

Mayor Rustin recognized Borough Attorney William McClure, who read into the record Resolution 13-90.

BE IT RESOLVED in compliance with NJSA 10:4-12, the Mayor and Council of the Borough of Tenaflly are going into Closed Executive Session to discuss the following matters:

- A. Collective Bargaining
 - 1. Contract Negotiations Update
 - 2. PBA Grievance

- B. Personnel
 - 1. Finance Department Employee – Litigation Involvement

Minutes will be taken of the meeting and released to the public at the time that the matter is resolved. After Closed Executive Session, the Mayor and Council will reconvene in the Richard D. Wilson Committee Room to adjourn this public meeting.

There being no further business to come before the Council, on a motion from C. Zinna, seconded by C. Honig, and all present voting in favor, the meeting was adjourned to the Closed Session in the Committee Room at 9:53 p.m.

ADJOURNMENT

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

Respectfully submitted,

Lissette Aportela-Hernandez, MPA, RMC
Borough Clerk