

Borough of Tenafly

MAYOR AND COUNCIL

COMMITTEE OF THE WHOLE

MINUTES

TUESDAY, MAY 7, 2013

At 7:02 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 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 News. Notice of this meeting by Resolution #13-168 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."

Present: Mayor Peter S. Rustin

Council members: Barry Honig, Martha Kerge, Nadia LaMastra, Jon Warmes,
Mark Zinna

Borough Administrator: Jewel Thompson-Chin

Borough Attorney: William R. McClure, Esq.

Absent: Council member Anthony Barzelatto

CLOSED SESSION

Mayor Rustin recognized Borough Attorney William McClure, who read into the record Resolution 13-188.

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

- A Collective Bargaining
 - 1. Contract Negotiations Update

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 resume the Committee of the Whole meeting.

On a motion from C. LaMastra, seconded by C. Kerge, and all present voting in favor, the meeting was recessed to the Closed Session in the Committee Room at 7:02 p.m.

The Committee of the Whole Meeting resumed at 7:37 p.m.

TO BE CONSIDERED

Year End Penalty Charge Presentation by CFO Gene Vinci

Gene Vinci, CFO, advised that the Borough can charge a 6% penalty on tax balances due at the end of the fiscal year in excess of \$10,000 principle and penalty. He noted that this penalty would have generated an additional \$20,000 in revenue last year. This substantial amount would go into surplus and would most likely serve as a deterrent for those not paying their taxes on time. He explained that this penalty is authorized by State statute and 41 municipalities currently have this penalty in place.

Mr. McClure pointed out that one of the benefits would be that holders of tax sale certificates would have an incentive to pay the delinquent taxes as they would receive the benefit of that penalty. Mr. Vinci responded that Tenafly does not have many properties that go to tax sale, but he believes that this penalty will encourage residents to pay their taxes on time.

Council concurred with Mr. Vinci's recommendation and this resolution will be listed on the May 21st Public Meeting agenda. This information will be communicated to the public through the newsletter and placing an insert in with the tax bills.

Outdoor Fitness Equipment Presentation by Recreation Director Mercurio

Matthew Mercurio advised that the company has recommended that there be 5 ADA pieces installed and he suggested that they place woodchips around the pieces. He explained that the equipment is geared towards those 12 years of age and older and does not use weights, but rather is based on one's resistance. He reviewed the benefits of having this equipment available to the public and stated that they are looking to place it in Roosevelt Common on a plot of land on the corner of Riveredge Road and Jefferson Avenue.

Council questioned where else this equipment has been installed and expressed concerns about its durability. Mr. Mercurio advised that this equipment can be found in Overpeck Park in Leonia, a school in Lincoln Park, and will soon be installed in Dumont. In terms of the durability, he advised that it is made for the outdoors and to withstand four distinct seasons. He noted that shrink-wrap can be purchased at a cost of \$150 per piece to protect the equipment during the winter. The equipment should last between five to seven years, a five-year warranty is included, and a maintenance contract can be executed to cover any defects in the machinery. A kit can also be purchased to fix any damage to the equipment as a result of vandalism. Mr. Mercurio advised that the company can come in to give a presentation and can bring a piece of equipment at that time.

Council decided to schedule a visit to a location that has this type of equipment. C. Honig suggested that Mr. Mercurio hold a class to teach residents how to use this equipment to which Mr. Mercurio responded that they can offer such a class.

Fingerprinting and Background Checks of Coaches – Revision to Ordinance 08-05

C. LaMastra explained that the Recreation Board is recommending that rather than having coaches fingerprinted every year, the policy be changed to having them fingerprinted the 1st year, conducting a State background check which runs their Social Security Number and Driver's License for the 2nd and 3rd year, and then having the fingerprinting done again in the 4th year. Mr. Mercurio added that the feedback from the coaches is that they are not very happy about the current process. He believes that the proposed process will be more accommodating and will help with the dwindling volunteerism rate.

Mayor Rustin questioned whether the fingerprinting and background checks can be done in-house rather than using an outside vendor. Chief Robert Chamberlain responded that he hasn't heard of that being done in any other town, but advised that other towns do use LexisNexis, a company that can conduct a criminal history check after the initial intensive check.

C. LaMastra noted that the NJ State background check will only report crimes committed within this state. Council asked that Chief Chamberlain research if a full national check can be done in the 2nd and 3rd year. Chief Chamberlain and Mr. Mercurio will then come back with a recommendation on process to be placed on a future agenda.

Police Officers Hiring Process Presentation by Chief Chamberlain

Chief Chamberlain advised that the hiring process begins by advertising the position in the Record, on njlawmen.com, and on the website. He explained that in order to be eligible to apply, one must have a high school diploma or equivalent and no criminal history, but noted that he is looking to add a college degree requirement. In this round of hiring, he stated that 425 applications were given out and out of 267 applicants who paid to take the exam, 256 actually took the test. He advised that the highest score was a 90.48 and the lowest was in the 40s range. Although historically the top 40 scorers would be sent to Police Academy for the physical fitness exam, he decided to increase the number to 60 due to the large applicant pool. He noted that in the past, dispatchers would be given 10 points that would be added to their scores, but expressed his discomfort with this practice and advised that he did not offer that option this time. In the spirit of transparency, he sent each person the results of the exam, redacting some information, so that each applicant could see where they stood. He advised that the physical fitness test will take place this Saturday and reviewed what will be tested during this exam. The scores from the written and physical fitness exams will be averaged and the top 20 candidates will be scheduled for the first interview which will be conducted by himself, the Borough Administrator and the two Captains and will involve 15 structured questions. They will then select the top 5 to 7 candidates for a second interview. Although in the past, the decision would be made after the second interview, he advised that he would like to set up a meet and greet with some of the field training officers to engage the candidate in an unofficial mode and gauge how they conduct themselves outside of the interview setting. Conditional letters of employment will be sent, subject to the results an intensive medical and background check. The candidates then attend the Police Academy for 6 months and will be placed on probation for a year. Chief Chamberlain finished by expressing his opinion that the right hiring process is being followed as it is very fair and has resulted in great candidates.

Mayor Rustin suggested that should a college degree requirement be implemented, it should be equated with military experience. Chief Chamberlain responded that he would have either a college or associate's degree and/or military experience requirement. He also advised that he would like to increase the diversity of officers within the force, particularly by better advertising in the Korean communities as there is a great need for Korean-speaking officers.

C. Honig inquired what consideration, if any, is given to those who are emergency service volunteers. Chief Chamberlain advised that it is not taken into consideration when it comes to the written or physical exams, but if the candidate makes it to the top tier, this experience carries a lot of weight. C. Honig then expressed his concern about the recent failure rate in new hires. Chief Chamberlain responded that in that round of hiring, Council wanted the department to hire alternate route candidates or officers who would like to transfer or have been laid off. He explained that alternate route candidates pay their own way through the Police Academy and are sometimes alternate route for a reason. He advised that the pool of candidates was very small with approximately 60 people who took the written exam. He commented that they did hire two outstanding officers and two who did not make it through the probation period.

COPS Hiring Grant

In light of the Newtown, CT shooting, Mrs. Thompson-Chin advised that Chief Chamberlain has attended several meetings with the Board of Education to discuss school security. Chief Chamberlain commented that Lynn Traeger, Superintendent of Schools, is interested in having a School Resource Officer (SRO) be placed in the schools and his main concern is who will be paying for this officer's salary and fringe benefits. The Board of Education seemed to be receptive to paying a portion, but they argued that it should not be a 50% cost share as the officer would not be used by the schools during the summer.

Mrs. Thompson-Chin explained that she received information on the COPS Hiring Grant which is offered nationwide, has very limited funds, and is a very complex grant. She has conferred with Gene Vinci, CFO, to obtain a cost analysis. Should the Borough be awarded said grant, it would require participation for 3 years and to keep the officer on staff for an additional 12 months after the 3 years has expired. The total support from the Borough would be \$300,000 over 4 years and should the Board of Education contribute, the cost would be reduced to \$135,000. Due to the limited funding and time constraints in submitting the application, Mrs. Thompson-Chin does not believe that there is a high likelihood that the Borough will receive funding and is not recommending to proceed with the grant application. Council concurred with Mrs. Thompson-Chin's recommendation.

Council determined that the main issue is financing and ascertaining what share the Board of Education is willing to pay. The governing body agreed that keeping the schools safe is of utmost importance, but the equation of cost share should be fair. Chief Chamberlain advised that he would be able to work out scheduling issues and will inquire how other jurisdictions operate in terms of vacation time. He noted that he has officers who would like to work in the schools and believes that having an officer present would deter a lot of the drug issues. It would also provide him with an additional officer to fill patrols during the summer and to be available for any special activity detail. Council decided to have Mrs. Thompson-Chin reach out to the Board of Education to see if they would like to discuss the hiring of a SRO and the cost share proposal at a Joint Use meeting.

Tenaflly Road Lease Presentation by Tom Toronto, United Way Representative

Mrs. Thompson-Chin explained that the acquisition of 311 Tenaflly Road has been concluded and this project is ready for next phase which includes structuring the financing time schedule and relationship between the Borough and United Way. She noted that the Borough is in receipt of a serious letter from the State's COAH office looking to rescind trust funds that are four or more years old. The amount stated in the letter is \$28,000, but the Borough's analysis does not show that there is \$28,000 from the 2008 pot. She noted that the COAH office will not argue with executed contracts and as such, she recommended that a contract for 311 Tenaflly Road be listed for approval at the May 21st Public Meeting in order to meet May 22nd deadline.

C. Zinna asked what the consequence would be for ignoring said letter. Mr. McClure responded that there is a timeframe within which to disagree and he advised that the Borough has spent money that is four years old and then some. He explained that Mrs. Thompson-Chin is thinking towards the future in making sure that funds are committed by contract.

C. Honig expressed his opinion that Council should not rush through this process based on \$28,000.

Tom Toronto of United Way advised that there is a large amount of capital CDBG money from Hurricane Sandy to be expended. Out of \$1.8 billion, \$25 million of capital is designated for

supported housing projects, especially those that are shovel ready. He explained that these funds must be spent in 2 years and he believes that this availability of funds presents a nice opportunity for this project. He advised that United Way is prepared to go for a site plan application as soon as possible and reminded Council of the suggestion that United Way would own the property as they would not be subject to prevailing wage, competitive bidding, etc. which drive up the cost of the project. He noted that this project would have a thin line of revenue and United Way is prepared to be owners with deed restrictions put in place and a reverter clause, allowing the Borough to have full control of the site without ownership or responsibility to run it.

C. Zinna questioned whether the additional grant would make it possible for the project to be financed completely without any additional funding from the Borough. Mr. Toronto responded that he expects competition to be pretty intense as there will be a large applicant pool but he is attending a meeting in the near future to obtain more information.

C. Honig expressed his opinion that this property should be run by a 501c3 that is made up of members of the Council, the community, and a member of the United Way. Although he stated that everyone has the same goal in mind of helping those with developmental disabilities, he believes that there minimally needs to be community involvement and ideally, governmental involvement.

C. Kerge questioned why the Borough is not entering into a long-term lease with United Way rather than deeding the property to them. Mr. McClure advised that if the Borough owned this property and was leasing it to United Way, United Way would be subject to the requirements of the Local Lands and Building Act which include bonding, prevailing wages, and competitive bidding. He noted that these requirements significantly increase the cost of the project.

C. Honig asked whether restrictions would be put into place to prohibit a member of the governing body or any of the Borough's professionals from deriving a financial benefit. Mr. McClure advised that as a part of the transfer of the property, bylaws could be created setting regulations to which United Way would have to conform in the operation of its facility. Mr. Toronto added that his organization is solely interested in operating supportive housing and noted that this facility will most likely need to be subsidized by United Way.

C. LaMastra recalled that at one point, Mr. Toronto had proposed Tenafly giving additional funds from the COAH trust. Mr. Toronto stated that at that time, he was concerned with finding the \$1.3 million that was needed and had suggested that the Borough might covey an additional \$300,000. However, he commented that he intends to make an application to the CDBG for home dollars and believes there is the possibility of obtaining a home loan. He stated that if he is unsuccessful, there might be recourse where the Borough will be asked to cover some of the construction costs, but remarked that until an agreement is reached, United Way has not sharpened its pencils.

C. LaMastra questioned whether the eligibility criteria is based solely on need or is it also asset-based. Mr. Toronto advised that the individual has to have a diagnosis that is recognized by the Department of Developmental Disabilities and is a client of recognized service agency. He explained that the State provides the special needs individual with a service budget, United Way measures that and interviews the service provider and family as a part of tenant selection. C. LaMastra questioned whether one should assume that Tenafly residents will have priority. Mr. Toronto responded that they are looking to have a preference for those who are from and live in Tenafly.

Mr. Toronto finished by explaining that United Way has no issue with whatever contingencies the Borough would like to put into place and commented that they have no hidden agenda. He noted that the organization is going to use its own capital to achieve its mission and that there will be no margin or great payoff in terms of operating a supportive housing facility. He pointed out that the facility will pay property taxes and United Way will care for property.

The consensus of the majority of Council was to have Mr. McClure draft a contract for Council to review.

The Council took a brief recess at 9:52 p.m. The Committee of the Whole resumed at 9:57 p.m.

Loss Control Policy

Mrs. Thompson-Chin advised that the JIF has updated the Loss Control Policy based upon new rules. She further advised that this policy has been reviewed and shared with all departments at the quarterly safety meeting. Mr. McClure added that this policy is already adhered to, but is being updated to conform to current guidelines.

C. LaMastra inquired whether this policy should be reviewed by the labor attorney. Mr. McClure responded that the MEL attorneys have drafted this policy and Mr. Ruderman should review it when updating the Personnel Manual.

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.

Johanne Gambrell, Ravine Road, questioned why 15 minutes of public comment had to wait until 10 p.m. and expressed her opinion that it doesn't feel like a democracy.

Mark Feldman, 133 Lylewood Drive, stated that the public is awaiting the reaction of Council to the comments made during the public hearing on the proposed Nature Center building and questioned when this discussion will take place. He asked for clarification as to whether the lease was approved by an ordinance or resolution as he believes it was done by ordinance. He questioned whether the lease is still being revised and when the public can see the language.

Ernest Kollitides, 164 E. Clinton Avenue, noted that in the corporate world, people are given the opportunity to vote when there is a big decision to be made either through proxy or by attending a meeting. He asked that Council reconsider having a referendum on the proposed Nature Center building.

Mr. McClure stated that it is his recollection that the initial action on the lease as proposed was by way of resolution. He advised that Green Acres did not approve lease as drafted, but the lease was always subject to their approval. He further advised that an ordinance will be presented after the Green Acres comment period has expired and only after that, will the final lease be presented.

ADMINISTRATOR'S REPORT

Mrs. Thompson-Chin reported that she and Gene Vinci will be preparing a response to the letter from the State's COAH office based on the Borough's financial analysis compared to theirs.

Mrs. Thompson-Chin explained that there is a foreclosure pending on a property in which the Borough holds a mortgage for \$14,990 as the property owner received a COAH rehabilitation loan. Mr. McClure advised that the Borough's mortgage has been postponed to their first mortgage. As there is substantial equity in the property, he offered his opinion that the Borough should participate to ensure that its position is protected. Council agreed that Mr. McClure should file an appearance.

Mrs. Thompson-Chin advised that Tenafly has received notice that FEMA will have crews in town to gather flood survey data. Information has been posted to the website for general information and notification.

In terms of the request from the Heights for the return of their maintenance bond and escrow, Mrs. Thompson-Chin confirmed that the Borough Engineer did review the status of the project and has advised that all units have obtained their Certificate of Occupancy. As of April 4, 2013, the Borough's ability to hold the maintenance bond responsible for any repairs has expired. The Borough Clerk will release the maintenance bond and Debra Dworkis, Land Use/Housing Assistant, will prepare a resolution for an escrow refund.

The Northern Valley CD meeting took place in Dumont and Mrs. Thompson-Chin has received confirmation of the \$13,500 allocation to address accessibility at the Senior Center.

Funds from the Open Space Grant will be used for the renovation of Froggy Park. It has been recommended for \$47,000 and the next step will be to go to the Bergen County Freeholder Board for final approval.

Mrs. Thompson-Chin conveyed to the Construction Official and Code Enforcement Officer that they are to issue daily summonses to Latz for vehicle enforcement. The Code Enforcement Officer questioned whether it makes sense to issue the summonses on a daily basis as he was advised by Judge Bell that most of the summonses would only result in a \$1 fine. Mr. McClure offered his opinion that a weekly summons would be sufficient. Council concurred and asked that Mrs. Thompson-Chin convey this decision to the Code Enforcement Officer.

Mrs. Thompson-Chin advised that the Events Committee met on May 2nd and reviewed several upcoming events. The representative from the Underground Fitness Project was in attendance as well as the Bergen Knights to review the details of their events. She advised that the anticipated

attendance at the Bergen Knights' Car Show is 1,000 people and the group is requesting Police presence.

CORRESPONDENCE

Council on Affordable Housing

RE: Municipal Affordable Housing Trust
Fund Current Balance

This item of Correspondence was discussed under To Be Considered, Item 2-F, and under Administrator's Report.

G. Nigro

RE: Request for a Public Referendum &
Presentation to Council

Mayor Rustin explained that this letter is requesting that a vote take place to have a public referendum. He advised that a member of the governing body first needs to request that this item be placed on an agenda.

Gerald Nigro requested to address Council and Council granted this request.

Gerald Nigro, 5 Stonybrook Road, advised that when Green Acres was a hot topic from 1972 through 1976, debates took place to allow both sides to present arguments. He expressed his opinion that it frustrates the residents of Tenafly that although everyone wants to support a new facility, there is not enough open public debate. He noted that there has been no information on hydraulic reports, a traffic study, or a certified business plan. He asked that there be a motion to have referendum. He pointed out that this section of the Nature Center has remained passive for the past 37 years and this proposal will change that dynamic completely. He suggested placing an entrance from 9W. He believes that placing an entrance at this location could gain 100% of public support as it would prevent more traffic from being introduced to E. Clinton Avenue.

Mayor Rustin advised that he has been contacted about attending cottage parties and stated that the Nature Center would also be willing to attend. He further advised that there will be another public hearing should this project move forward and it will be held at a larger venue.

R. Burstein

RE: Tenafly Nature Center Proposal

Mayor Rustin advised that Ms. Burstein expressed her opposition to the Tenafly Nature Center proposal. Council thanked Ms. Burstein for her input.

RESOLUTIONS for meeting of May 21, 2013:

- A. Approve Expenditures as of May 15, 2013
- B. Authorize Escrow Refund – New Construction and Soil Moving – Olga Liberof Zabolina
- C. Authorize Cancellation of Small Tax Balances

OLD BUSINESS

None.

NEW BUSINESS

None.

ADJOURNMENT

As there was no further business to come before the Council, on a motion by C. LaMastra, second by C. Kerge, and unanimously carried, to adjourn this meeting. The meeting was adjourned at 10:28 p.m.

Respectfully submitted,

Anne Dodd
Deputy Borough Clerk