

Borough of Tenafly

MAYOR AND COUNCIL

COMMITTEE OF THE WHOLE

MINUTES

TUESDAY, MAY 3, 2011

The meeting was called to order at 7:31 P.M. with the reading of the Open Public Meetings Act statement by Mayor Rustin.

Present: Mayor Peter S. Rustin

Council members: Barry Honig, Nadia LaMastra, Michael Lattif, Jon Warms

Borough Administrator: Jewel Thompson-Chin

Borough Attorney: William R. McClure, Esq.

Absent: Council members Anthony Barzelatto, Martha Kerge.

The agenda was rearranged for the presentation on the COAH Spending Plan by Joe Burgis. Public Comments will commence after this presentation.

TO BE CONSIDERED

COAH Spending Plan – presentation by Joe Burgis

Mr. Burgis advised that COAH will review the Borough's spending plan on June 8th. Once the plan is approved, then the Mayor and Council can adopt the plan and use the development fees that have been collected. It appears that the spending plan does not have to be amended and that COAH will commence mediation again on the Borough's Housing Element and Fair Share Plan. The Mayor and Council can anticipate a letter regarding the mediation shortly.

C. Lattif questioned if there was any advantage for the Borough to go forward with development plans. Mr. Burgis responded that the Borough's obligation end when the spending and housing plan become certified and that the Borough is not responsible to develop properties. For the rehabilitation obligation of 62 units, 1/3 of the funding must be available immediately at a cost of approximately \$10,000 per unit. Also, there are about 8 or 9 different approaches to get the word out about the funding for the rehabilitation of units. This is where use of the collected development fees can be implemented. Mr. Burgis explained that the development fees can be used to recoup the costs incurred in the preparation of the housing and spending plans.

Mr. Burgis provided a background on the housing plan that consists of 3 components: rehabilitation of 62 units, prior round obligation of 126 units of affordable housing, and the Third Round obligation of 84 units of affordable housing. He explained the methodology COAH used to arrive at these numbers in 2008, which was a different economic climate, as well as the Borough's assessment of land use and environmental projections that were submitted to COAH to reduce the obligations. This is where mediation will resume with COAH.

C. Honig requested on how the Borough obtained \$1,000,000 in development fees. Mr. Burgis explained that the funds have been paid by developers since 2003 at a rate of 1½% of equalized

assessed value of residential projects and varied percentages of equalized assessed value of non-residential projects. The collected development fees can be used for rehabilitation, to make existing housing stock more affordable, for down payment assistance, mortgage assistance, and to offset administrative and legal costs. The fees can also be used to purchase property to build affordable housing. Some communities have used the fees to purchase property and then turn the property over to organizations such as Habitat for Humanity.

Council requested Mrs. Thompson-Chin to provide a summary of the administrative costs associated with COAH and to advise what has been charged to the development fees trust fund to date. She will reach out to special counsel for COAH, Stuart Keonig as well.

Mayor Rustin stated that the Borough is well guided with Mr. Burgis and Mr. Keonig, who are very qualified experts in this matter.

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."

Mayor Rustin also informed the public that the meeting is being videotaped.

Scott Lanin – 83 Downey Drive – stated that he lives adjacent to the creek and is familiar with the situation at Smith School. He has been advised of components of the plan, which would change school procedures, such as dismissal and arrival times. He mentioned that the premise of the study is based on incomplete facts, as traffic during the winter was not taken into consideration. He wishes to speak with the consultant, but has not been able to do so.

C. Lattif requested the Borough Administrator to explain how the public will be able to comment on the plan. Mrs. Thompson-Chin explained that once the report is finalized, it will become available, and there will be a special public hearing on the study.

Mr. Lanin requested that the plan be reformatted to consider snow issues, the change in traffic and parking policies, and to take conservative approaches such as using school property first.

John Onsidler – 93 Downey Drive – stated that he's looking forward to the report and believes all constituents can be satisfied.

Mark Feldman – 133 Lylewood Drive – commented on the procedure of notifying the public about items on the agenda, the Open Public Meetings Act, adequate notice, and how late the availability of agenda items makes it impractical for the public to plan attendance at Council meetings.

Mrs. Aportela-Hernandez explained that adequate notice relates to notification of a meeting that was not listed on the annual meeting notice and that the supporting documentation that is part of a workshop agenda is deliberative material; if Council decides to take any action, it would be done at a public meeting at which time such documents would be made available accordingly. With respect to the agenda being available on the website, it is policy that the agenda be posted on Mondays at

4pm; however there is pending legislation that may require posting agendas 3 business days before a meeting that the Borough Clerk is tracking.

Council requested that for the first workshop in June to list for discussion the policy on the availability of the agenda on the website as well as how items are listed on the agenda.

TO BE CONSIDERED (continued)

Status of Building Department – meeting with Bob Byrnes

Mayor Rustin described Council's plans to meet with departments and that the Building Department was selected as the first department in an effort to follow-up on the recently enacted changes.

Mr. Byrnes advised that the department is still in transition and there are outstanding issues involving IT and telephone lines; procedures have not changed and he does not foresee any major changes.

Mayor Rustin emphasized that he hoped the changes will not cause a negative impact on customer service. C. Honig explained that he would like a culture of customer service to be promoted in which the red carpet is rolled out for new businesses, and for politeness and a positive attitude to be displayed when communicating to residents and businesses.

Mrs. Thompson-Chin commented that staff is looking at the scheduling of the code enforcement officer to determine if a reduction of hours will impact response time.

C. Lattif stressed that the inspections need to be in sync and cited how a business received conflicting information from fire and electrical a couple of years ago. C. Warms mentioned that a common complaint is that applicants need to provide multiple submissions of plan and asked if any issues can be caught in the first review. Mr. Byrnes responded that when plans are submitted, contractors seek a partial review, in which one change in the plans can affect another discipline.

C. LaMastra stated that the BID Board will receive a tutorial on zoning issues to help guide businesses that seek to establish themselves in the borough.

Smith School/Downey Drive Area Study Follow-Up

Mrs. Thompson-Chin advised Council that a deadline needs to be established for comments to be given to the consultant in order to finalize the study. Council agreed that the deadline will be May 10th and that any comments will be forwarded to the Borough Administrator, who will then prepare a package for the consultant. Also, May 31st was selected as a date to hold a public hearing on the study. Once the consultant confirms the date, a resolution authorizing the special meeting will be listed on the May 10th consent agenda.

BID Budget

C. LaMastra reported that at yesterday's meeting, there was not a quorum. This item will be relisted for discussion on May 24th.

Alma Bank Grand Opening Permit Request

Mrs. Thompson-Chin advised that the bank is in compliance with the Building Department to conduct the grand opening. Council reviewed the matter and determined that this was not a

situation that requires their approval since it will be held on private property. The Borough Clerk will reach out to the branch manager and advise.

Wells Fargo Parking Lot Lease

Mr. McClure reported that he spoke with the representative for Wells Fargo, who is in charge of leasing regarding the contract renewal as well as selling off a portion that is being leased to the Borough. The representative does not have the authority to make amendments to the lease. Until the representative obtains information to determine if the lease can be amended, Mr. McClure recommended that the Borough exercise its option to renew, since the lease is cancellable on short notice.

Developer’s Agreement – 16 Central Avenue.

A resolution authorizing the execution of the developer’s agreement will be listed for the May 10th consent agenda.

ADMINISTRATOR’S REPORT

Update Memorandum

Council reviewed the Administrator’s update memo and discussed the section regarding the Borough’s projects. C. LaMastra noted the memo reported that there are 5 culverts in need of repair and that construction estimates were being prepared by the engineer. She inquired on the source of the funding for these repairs. C. Honig asked how the repair will be funded as they were not in the capital budget. Mrs. Thompson-Chin responded unexpended funds from other capital budgets can be cancelled and reallocated for another purpose. This is done by an ordinance prepared by the Chief Financial Officer.

C. LaMastra expressed concern about the timing for the installation of the aquatic chairs for the swim clubs since they open on Memorial Day weekend. Mrs. Thompson-Chin advised that the swim clubs have been slow to respond to communications and request to access the site to arrange for the installation of the chairs. She will contact Dave Hals to determine the impact of the level of water in the pools may have on the installation of the chairs.

CORRESPONDENCE

A. M. Reid/Englewood

Re: Deer on Knickerbocker Road

Council reviewed the letter and requested that the Borough Administrator review with the DPW Director and Chief Police locations to install deer crossing signs and to seek County approval. The Borough Clerk will contact Ms. Reid to advise her of Council’s determination.

B. Haight/North Carolina

Re: Condition of Roosevelt Common

Mrs. Thompson-Chin reported that according to Mr. Beutel, the pond is cleaned on a periodic basis, but he will review the cleaning schedule with the Clean Communities contact. C. LaMastra recommended that a community service assignment issued by the municipal court include cleaning up the parks and pond. C. Warms concurred and recommended that the municipal center brook also be cleaned as well as a community service assignment.

OLD BUSINESS

Recognition of the 7th and 8th Grade Tenafly Recreation Boys Traveling Teams – selection of meeting date in May.

Mrs. Aportela-Hernandez advised Council that both the 7TH & 8TH grade traveling basketball team won a champion ship and that this was the 6th year in a row that the 8th grade team won. She also informed Council that the Recreation Director would like to invite parents and team members to the meeting. Council determined that the proclamation will be presented at the May 24th public meeting.

FOR THE GOOD OF THE ORDER

Mayor Rustin stated that the Borough has not received a response or acknowledgement from Governor Christie or any of the officials copied in the letter regarding the letter and resolution on the light rail. He asked Council how they wished to proceed in follow-up on this issue. Council directed the Borough Administrator to contact the Governor’s office.

C. Honig requested that the Police Officers that had recently retired be recognized at a Council meeting. He also requested that under New Business that on behalf of the ADA Committee the issue of handicap swings in Walnut Park be listed on next week’s public meeting agenda. Council concurred.

TO BE CONSIDERED (continued)

Fire Committee – Discussion on Formation and Changes to Ordinance

Mr. McClure prepared an ordinance after C. Barzelatto noticed 4 or 5 references in the Borough Code to a Fire Committee, but the committee itself was never codified. Some of the duties of the Fire Committee involve include disciplinary action, the creation of a new fire company, the election of a chief and assistant chief, and submission of monthly reports to the governing body. Mr. McClure advised that this ordinance must be adopted in order to comply with the code. Council authorized that the ordinance be listed for introduction on May 10th with a public hearing on May 24th.

RESOLUTIONS for meeting of May 10, 2011:

- A. Approve Expenditures as of May 4, 2011.
- B. Authorize the Closing and Cancellation of Inactive Public Assistance Trust Fund.
- C. Approve Person-to-Person and Place-to-Place Transfer of Plenary Retail Consumption License – 0261-33-001-005 – Charlie Brown North, Inc to Forge of Tenafly Real Estate Associates, LLC.
- D. Urge State Legislature to Enact S-54 - Changes restrictions on certain county or municipal stream cleaning activities.
- E. Execute Developer's Agreement for 16 Central Avenue.
- F. Approve Redemption of Tax Title TTL10-5 – 42 Westervelt Ave.

PUBLIC HEARINGS for the meeting of May 10, 2011:

- A. Ordinances: None**
- B. Other: None**

Minutes to be approved: February 8, 2011 Work Session
February 8, 2011 Closed Session
February 15, 2011 Public Meeting
February 22, 2011 Work Session
February 22, 2011 Public Meeting
February 22, 2011 Closed Session

CLOSED SESSION

Mayor Rustin recognized Borough Attorney William McClure, who read into the record Resolution 11-163

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. Personnel
 - 1. Evaluation of Borough Administrator

- B. Attorney-Client Privilege
 - 1. Auditor Subcommittee – Recommendation

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. LaMastra, seconded by C. Warms, and all present voting in favor, the meeting was adjourned to the Closed Session in the Committee Room at 9:27 p.m.

ADJOURNMENT

As there was no further business to come before the Council, on a motion by C. Lattif, second by C. Honig, and unanimously carried, to adjourn this meeting. The meeting was adjourned at 9:50 p.m.

Lissette Aportela-Hernandez, MPA, RMC
Borough Clerk