

Borough of Tenafly

MAYOR AND COUNCIL

COMMITTEE OF THE WHOLE

MINUTES

TUESDAY, AUGUST 2, 2011

At 7:03 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. The notice of this meeting via the July 27, 2011 Sunshine Notice has been sent to the Record, Suburbanite, and Northern Valley news and has been posted on the public bulletin board in the lobby of the Municipal Center."

Present: Mayor Peter S. Rustin

Council members: Anthony Barzelatto, Barry Honig, Martha Kerge,
Nadia LaMastra, Jon Warmes

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

Absent: Council member Michael Lattif.

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.

Sally Rubeck – 22 Esmond Place – described the proposed area for the dog park is in a visible, highly used area at a very busy intersection. She requested that another location be considered.

Harold Olejrz – 13 Esmond Place – requested that the location of the dog park be reconsidered due to the proximity to the playground and other activities. He stated that the Commons is getting fenced in more and more.

Susan Rosen – 13 Esmond Place – explained that the dog park is an inappropriate site for the Commons, which is becoming increasingly fenced into smaller units. She expressed her concern of the location's proximity to Griffin Park, that the dog park will cause a decline in property values due to the noise, odor, and capability for disease, and that it will be used by non-residents.

Jim Murray – Norwood, NJ – explained that he is a landscape contractor and that cutting the hours for commercial landscaping and eliminating work on Saturdays will not provide enough time to complete spring and fall cleanup. Other work that does not cause noise can be performed on Saturdays, such as seeding, mulching, planting, etc. He described the potential use of equipment that has noise suppression. If a leaf blower cannot be used, it will result in more manual work, delays in completing work, and higher costs. He stated that he wants to be part of the solution.

Paul Keyes – 44 Cortlandt Place – inquired how many complaints have been received in comparison to the number of residents. He advised Council that they need to be careful in creating public policy based on a few complaints. Work on Saturdays is based on demand and explained the economic impact to the businesses in the downtown if commercial landscaping is prohibited on Saturdays.

Robert Rodriguez – 218 West Clinton Avenue – mentioned that hours should not be eliminated on Saturdays for the financial reasons as previously commented.

Mayor Rustin described the landscaping issue as a balancing action on the quality life in Tenafly, which the Council will address. He stated that if any changes will be made, the changes will make sense.

Johanna Gambrill – Ravine Road – commented that only 4 of the 65 registered home improvement contractors are based in Tenafly and that the 9 registered landscaping companies are not based in Tenafly. She claimed that the Borough does not have to support all the businesses. She commented that there are no proper checks or accountability in place.

Steve Starkman – 252 West Clinton Avenue – described that homeowners will be left to do the mowing and the noise problem will still exist, fixed income residents employ students who can only work on Saturdays, and that the aesthetics of the town will suffer.

Arnold Coswell – West Clinton Avenue – noted that if the motivation is to reduce noise, it doesn't matter who runs the machines. He advised that he received a notice from a landscaper that if the hours of operation are curtailed, the rates will increase at 200 – 300%.

Mrs. Henley – South Browning Avenue – described how retirees and senior citizens are physically unable to perform landscaping work.

Mayor Rustin explained that a letter complaining about the noise was received and that it was the consensus of the governing body to look into the issue. There are no concrete proposals on the table. Their minds have not been made up yet, but public input is valuable. Council is determined to do the right thing.

David Cavilla – resident – registered landscaper – explained that landscapers play by the rules and landscaping is a weather based business since Saturdays are usually make-up days.

Eileen Pleva – Environmental Commission – summarized that the current noise ordinance is reasonable for commercial establishments and residents. The only change recommended is to

restrict the hours on Saturdays to 9am to 6pm for both commercial business and residents. She commented that the commercial equipment is more compliant with EPA guidelines.

Mark Feldman – 133 Lylewood Drive – urged Council to take action on a referendum suspending the open space tax since the deadline is August 19th.

Judy Stern – 17 White Place – stated that the assessment of properties on the west side of town increased, but the east side did not, which resulted in an increase in property taxes. She commented how comparable sales can be presented to the County Tax Board and how fixed income residents are being forced out.

Melvin Lubins – 33 Stony Brook Road – told Council to spend less.

MEETINGS:

Andrew Hipolit, P.E., P.P., C.M.E. – Borough Engineer – Current Status, Schedule & Key Issues

Mr. Hipolit described that the seven projects being overseen by the former engineer are almost wrapped up. He reviewed the current projects, which include Phase 3 of renovating Huyler Park, 2011 Road Resurfacing, the installation of sidewalks on the south side of Downey Drive and Leroy Place before the commencement of the school year, the repair of stream walls along East Brook, the resurfacing of Columbus Drive from a grant from NJDOT, the sanitary sewer repairs along Tenafly Road, the lighting of the Railroad Station, the 3 culverts identified by the county that are in need of repair in which he is waiting for the inspection report from the former engineer, the repair of the Benjamin Road culvert and the repair of the culvert through the central business district. He described that grants are very limited, but he is researching where funding opportunities may exist.

C. LaMastra inquired about his interface with the Building Department. Mr. Hipolit responded that he checks in with the Building Department 2-3 times a week and they are very proactive in reaching out to him.

Mr. Hipolit advised that he is seeking that Council approve a change order to the 2011 Road Resurfacing project due to the need for additional curbing. He stated that the Chief Financial Officer has found \$50,000 in unused funds from a prior road resurfacing project. Council concurred with the recommendation.

Janeen McDonald – Clerk of the Works – Police Headquarters Construction Update

Ms. McDonald reported that the construction project is on schedule and on budget with a completion date of January 18, 2012. She recommended 3% of the bid be reallocated from uncommitted funds to cover any unforeseen issues as a contingency. This will enable small issues to be handled as they arise without interrupting the project, which will also prevent delay claims from the contractor.

Mrs. Thompson-Chin clarified that the uncommitted funds are not part of the bid. These funds are part of the budget authority granted via ordinance. The \$90,000 will not automatically go to the contract. This amount will be held as a contingency to keep the project on track and will only be released based on an approval by project team. She explained that a change order occurs when the contract amount needs to be increased, but that is not the case here.

Ms. McDonald explained that the \$3 million bid was for a contract based on plans and specifications. Some things have come up that were not part of the original plans and specs. A larger expansion joint system is required. This issue was discovered during the demolition process.

Council authorized the reallocation of 3% of the bid from uncommitted funds as per Ms. McDonald's recommendation.

TO BE CONSIDERED

Proposed Ordinances – Amendment to Enforcement of NJ Uniform Fire Code

Mrs. Thompson-Chin advised Council that the proposed ordinance is in response to the results of a field monitoring visit by the Department of Community Affairs Division of Fire Safety. Fire Subcode Official, Mr. Blackwell explained the revisions to Council as the current ordinance is 20 years out of date. Council concurred with Mr. Blackwell's recommendations and requested that the draft of the ordinance be forwarded to the Borough Attorney for review in order to list for introduction at the first public meeting in September.

Moratorium on Open Space Tax Levy for 2012

Mrs. Thompson-Chin confirmed that the Open Space fund currently has \$1.8 million in revenue, the levy will sunset in 2015, and that the cost of the tax levy on the average assessed home is about \$70. C. Kerge stated that a moratorium does not mean the Council's philosophy on open space has changed, but a referendum will provide an opportunity for the residents to restate their commitment in light of the current state of the economy. C. LaMastra explained the need to obtain open space for fields as the Recreation Department is receiving pressure from various local sports organizations for field space that we do not have.

The consensus of the majority of Council directed the Borough Attorney to prepare a resolution to authorize a municipal referendum to suspend the collection of the open space tax levy for 2 years and extend the sunset to 2017.

Final Approval for Dog Park Location

Mayor Rustin explained that if Council approves the proposed location in Roosevelt Commons, the next step for the committee is to prepare an official plan that would include financing and rules of use. Council expressed the concerns heard during public comment and recommended alternative locations. The chair of the dog park committee, Mr. Ellenson explained that all of the alternative locations were reviewed, but were not recommended due to the proximity to homes. He explained how control will be maintained and that the other issues the residents spoke about will be researched thoroughly before an implementation plan is proposed. Council directed the committee to provide a proposal on the financing and rules of use before finalizing approval on a location.

Commercial Landscaping Ordinance

Council created a subcommittee consisting of Mayor Rustin, C. Warms, and C. LaMastra to review the concerns of all parties involved and alternatives to the issue. The subcommittee will report back to the full governing body with a proposal upon conclusion of this review.

Proposed Parking Restriction – Engle Street/Inness Road

Mrs. Aportela-Hernandez explained that Chief Bruno was advised that the process for creating a parking restriction on a county road has been revised. The Borough must first adopt an ordinance creating the parking restriction, which then has to be forwarded to the county engineer for review and approval before it can be enacted. An ordinance to create the parking restriction will be introduced on the August 9th meeting.

CORRESPONDENCE

Environmental Commission

Re: Solar Photovoltaic Systems

The Environmental Commission Chairperson, Eileen Pleva requested that Council should independently investigate the viability of installing solar panels on roofs of municipal property. She requested if the Borough Administrator can obtain the site plans of Borough buildings and energy bills and forward them to the Borough Engineer to conduct an analysis. Council directed Mrs. Thompson-Chin to obtain a cost estimate from the engineer. She advised that she will reach out to Ms. Pleva to prepare a scope of work in order to obtain the cost estimate.

TO BE CONSIDERED (Continued)

Proposed Concert in Huyler Park

Mayor Rustin advised that the 7-11 donated \$1,000 to conduct a concert in Huyler Park with the band Reminiscence on August 23rd and Red Mango wishes to conduct a concert on September 16th with a rock cover band. Council approved both concerts.

OLD BUSINESS

C. Barzelatto requested a status on the hiring of a police officer in July and the tentative hire of an officer in September that was incorporated into the adopted budget. This item will be discussed at the work session after the August 9th public meeting.

At this time, Council recessed at 10:11 p.m. and reconvened at 10:21 p.m.

CORRESPONDENCE (Continued)

Chabad Lubavitch

Re: Request for Temporary Trailer

Council approved the request for the temporary trailer.

Tenaflly Chamber of Commerce

Re: October Sidewalk Sale/Craft Fair

Council approved the request for the Chamber to conduct the October event contingent upon the approval of the Police, DPW, Fire Department, and TVAC.

CLOSED SESSION

Mayor Rustin recognized Borough Attorney William McClure, who read into the record Resolution 11-241.

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. Litigation
 - 1. Latz v. Borough of Tenaflly, et. al.
 - 2. Kelly v. Borough of Tenaflly, et. al.

- B. Personnel
 - 1. Evaluation of Borough Clerk

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. Honig, and all present voting in favor, the meeting was adjourned to the Closed Session in the Committee Room at 10:24 p.m.

The Committee of the Whole session resumed at 10:49 p.m.

TO BE CONSIDERED (Continued)

Historic Landmark Designation – 170 Thatcher Road

Mrs. Aportela-Hernandez reported that she spoke with Ms. Lorberbaum, who advised that designating this property as a historic landmark would currently be inconsistent with the Master Plan. However, this property will be included in the re-examination of the Master Plan in November. Council decided to postpone this designation until this property is included in the Master Plan.

Alternate Prosecutor

Mayor Rustin advised that he is still reviewing the list of candidates provided to him to ensure there are no conflicts.

Today in America Television Show

Mayor Rustin reported that he was approached by the producers of Today in America, who wanted to run a story on the history of Tenafly on some cable stations. However, they had requested \$19,000 to do so. Mayor Rustin wanted to notify the Council before advising the producers that the Borough is not interested due to the cost involved. Council concurred that they did not wish to proceed with this television program.

FOR THE GOOD OF THE ORDER

C. LaMastra reminded Council that in June she requested that the members of TVAC who received recognition at the awards dinner also be recognized in the August public meeting. She will provide the Borough Clerk with the list of the TVAC members.

C. LaMastra informed Council that the Welcome Committee's annual reception for new residents will be held on Thursday, September 8th.

Mrs. Aportela-Hernandez informed Council that a fax was received this evening from the League of Municipalities requesting that municipalities adopt a resolution in recognition of the 10th anniversary of 9/11. Council authorized that the resolution be listed for the August 9th meeting. C. Honig will contact Mayor Moscovitz to attend next week's pre-meeting to provide an update on the 9/11 10th anniversary event.

C. Warms requested that Council review the concept of paperless agendas and referred to the New York Times article in the agenda packet. He remarked that Council should consider this concept not only from an environmental perspective, but also for the time spent by personnel to assemble the packets. C. Honig concurred and mentioned that he receives the entire agenda packet electronically. Mayor Rustin mentioned that Old Tappan has gone paperless. Council requested that this be considered for the 2012 budget.

TO BE CONSIDERED (Continued)

IT Contract

Mr. McClure advised that he is still waiting to hear from the Board of Education's attorney regarding the revision to a portion of the language contract.

2011 Best Practices Inventory Questionnaire – list after good of the order

The Borough's response to the 2011 Best Practices Inventory Questionnaire will be reviewed at a public hearing on August 9th.

RESOLUTIONS for meeting of August 9, 2011:

- A. Approve Expenditures as of August 3, 2011.
- B. Approve Developer's Agreement/Clinton Auto Service, Inc./343 Tenafly Road.
- C. Approve Redemption of Tax Title Lien TTL#09-4/1 Byrne Lane #6.
- D. Request approval of the Director of the Division of Local Government Services to Establish a Dedicated Trust by Rider for the "Fire Dedicated Penalty Trust Fund".
- E. Request approval of the Director of the Division of Local Government Services to establish a Dedicated Trust by Rider for the "Fire Penalty Trust Fund".
- F. Authorize Commuter Parking Permit Refund/Shefer/280 Tenafly Road.
- G. Authorize Execution of Employment Separation and Release Agreement.

PUBLIC HEARINGS for the meeting of AUGUST 9, 2011:

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

Minutes to be approved:

March 15, 2011 Budget Meeting
March 22, 2011 Special Closed Session
March 22, 2011 Work Session
March 22, 2011 Public Meeting
March 22, 2011 Closed Session
March 29, 2011 Special Meeting
March 29, 2011 Closed Session
April 5, 2011 Budget Meeting
April 5, 2011 Work Session
April 26, 2011 Public Meeting
April 26, 2011 Closed Session
July 5, 2011 Work Session
July 5, 2011 Closed Session
July 12, 2011 Public Meeting
July 12, 2011 Closed Session

Due to the late hour, the following items will be discussed at the work session following the August 9th Public Meeting

TO BE CONSIDERED

*Code of Conduct/Adjournment of Meetings
Concession Stand Materials Pricing
Request to Vacate Phelps Avenue*

CORRESPONDENCE

*Historic Preservation Commission
NJLM*

*Re: Huyler Park Renovations
Re: Resolution Supporting A-4126 Statutory
Deadline for Municipalities to Act on
Defeated School Budgets*

*K. Mallon
D. MacIsaac
T. Huff/Kindergan Landscaping
N. Hartzband*

*Re: Landscaping Ordinance
Re: Landscaping Ordinance
Re: Proposed Trench Drain
Re: Landscaping Ordinance*

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 11:01 p.m.

Lissette Aportela-Hernandez, MPA, RMC
Borough Clerk