

Approved: September 14, 2010

# **Borough of Tenafly**

MAYOR AND COUNCIL

COMMITTEE OF THE WHOLE

MINUTES

TUESDAY, AUGUST 3, 2010

The meeting was called to order at 7:30 P.M. with the reading of the Open Public Meetings Act statement by Mayor Rustin.

Present:	Mayor Peter S. Rustin
Council members:	Anthony Barzelatto, Nadia LaMastra Michael Lattif, Joseph McDermott, Patrick J. Rouse, Jon Warms
Borough Administrator:	Jewel Thompson-Chin
Borough Attorney:	William R. McClure, Esq.
Zoning Official:	Frank Mottola
Absent:	None

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."

1. Punz Wolff, 1 Byrne Ln #4, Tenafly requested an update as to the status of the Cotswald fountain. Borough Attorney informed her that the issue of ownership of the Fountain needs to be determined in a court of law; the HPC will only determine whether it's appropriate to remove the fountain once ownership is determined. She was further informed that if the issue were to come before the HPC, the homeowners would be notified.
2. Liz Shanks, 30 Surrey Ln, Tenafly stated that she is the Chair of the Tenafly Traditional Holiday Committee and is looking for approval for their annual holiday display in Huyler Park. They are requesting approval earlier this year as they need to order new figures for the display and would like to ensure that these figures arrive in time.
3. Mark Feldman, 133 Lylewood Dr, Tenafly requested that Closed Session minutes regarding Downey Drive be released. He then referred to a report on UCC fees that had been included in the packet and questioned whether other financial reports would be issued routinely to the Council. He also noted the change in depositories that is listed on the agenda and requested a report on how much savings would be realized by making this change.

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4. June Finkelstein, 68 Downey Dr., Tenaflly expressed her concern over Downey Drive becoming one-way during school hours and asked the Council to reconsider their decision.
5. Johanne Gambrill, 15 Ravine Rd., Tenaflly stressed the importance of the Light Rail referendum as she believes that public opinion will impact whether NJ Transit will reinstate the Light Rail to Tenaflly. She further expressed her concern that most members of the Transportation Committee appear to be in favor of the Light Rail despite the fact that residents have twice voted in opposition.
6. Martha Koven, 2 N. Summit Ave., Tenaflly, expressed her opinion that Tenaflly residents should be made aware of certain facts regarding the Light Rail before the election in November. She asked if there would be an October newsletter with this information. Mayor Rustin agreed that the newsletter with information pertaining to the Light Rail should be available at least a week prior to the election.
7. Raymond Murphy, 48 Downey Dr., Tenaflly, pointed out that it is the responsibility of the Board of Education to dismiss the children safely on school property. By placing a sidewalk on Downey Drive, he believes that the BOE will be transferring some of this responsibility onto the private homeowners. He offered an alternative of having children dismissed onto LeRoy Street. He also suggested moving the carpool lane from Downey to another location on Board of Education property.
8. Cynthia Blum, 89 Downey Dr., Tenaflly questioned whether the topic of the sidewalk was to be discussed in this meeting. She was informed that there are two letters under correspondence but there may not be much discussion generated.
9. David Wall, 11 Cameron Rd., Tenaflly, stated that he is the Chairman of the Historic Preservation Commission and referred to his letter listed under correspondence in which asked that acceptance of bids for Davis-Johnson Park Improvements be tabled. Although he does not want to see the Borough lose the grant for this project, he has not met with the County Historic Preservation officer on this matter, the HPC has not taken any formal position, and he, therefore, objects to continuing the process of accepting bids.
10. Don Merino, 19 Peter Lynas Ct, Tenaflly, expressed his opinion that having the HPC involved in the Davis-Johnson Park Improvements would be beneficial to the town.

Mayor declared Public Comments closed at 8 p.m.

Due to interest by the members of the public present this evening, the following items on the agenda were moved forward:

1-J. Request for holiday display in Huyler Park/placement of display

Council agreed to grant the Traditional Holiday Committee's request to have their display in Huyler Park. It was decided, however, that Bob Beutel would set up a meeting with the group to determine the placement of the display.

3-K David Wall, HPC Chair Re: Davis-Johnson Park Improvements

Because the Davis-Johnson Park Improvements Project has gone out to bid, the Council must award the bid within 60 days. After some discussion, it was decided that a meeting should be scheduled with the Historic Preservation Commission, Bob Beutel, and the Borough Engineer. A decision on this matter will be made following the meeting.

3-C M. Rosenberg/Downey Drive Re: Sidewalk on Downey Drive

Because the sidewalk most likely will not be installed until next spring, Councilman Lattif suggested conducting a safety study of the Smith School area. Members of the Council did not want the study to interfere with the installation of the sidewalk. After some discussion, Council agreed that a formal letter should be sent to the Board of Education stating that the governing body approves the installation of the sidewalk, and in

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conjunction, is recommending that a safety study be conducted with a scope beyond Downey Drive.

1. **TO BE CONSIDERED**

A. Review LDR proposed revisions (from 6/22 mtg)

After Council asked for clarification from Frank Mottola and Borough Attorney McClure on a few items, the Council agreed to place this item on the 8/10 Public Meeting Agenda. The Council acknowledged the hard work that the Planning Board put into revising this document and expressed their appreciation.

B. Engineering Review Fee Ordinance

Frank Mottola explained that this fee schedule has been in place for 10 years, but has never been formalized by ordinance. The fees are based upon the average number of hours spent by the Borough Engineer on the various categories of work. The Council asked that the Building Department contact other municipalities to compare these fees to those charged in other municipalities. This item will be considered again at the September 7<sup>th</sup> COW meeting.

C. Numbering of Buildings ordinance

Administrator explained that in order to ensure that all areas of safety concerns were addressed, this ordinance was drafted by Frank Mottola, Zoning Official, Bob Byrnes, Construction Official, Bob Beutel, Director of Public Works, Alden Blackwell, Fire Official, and Jewel Thompson-Chin, Borough Administrator. Council agreed to schedule this item for the August 10 Public Meeting.

D. Revisions to Amend Sign Ordinance

Borough Attorney advised that all inconsistencies have been resolved. He did note that on page 17, under section c, SR/B zone should be included; he stated that he would make that change. Council agreed to place this item on the August 10 Public Meeting agenda.

E. Authorize Bid Receipt/Lease of 5 South Summit Street

Borough Attorney advised that the attorney for the current tenant requested that the lease be limited to a six-month period. Borough Attorney expressed his concern that people will not want to bid on a lease that is only six months. Council agreed, however, to amend the lease to a six-month period.

F. Reso #10-242/Award bid for Improvements to Rose Garden at D-J Park (from 7/13 Meeting)

It was agreed that the Council should recognize the Historic Preservation's role in this matter and should not proceed without the benefit of their input. It was decided that the Administrator will schedule a meeting with the Engineer, DPW Director, and Historic Preservation. This item will be placed on the August 10 Public Meeting agenda with the assumption that the issue will be resolved.

At the July 13 meeting, clarification was requested on the rejection of the alternate bid. Borough Administrator explained that there are stormwater runoff problems in the Serpentine area, and in 2009, a large-scale drainage project with a cost of \$42,000 had been scheduled to address these issues. However, the project did not receive approval in the capital budget. Because Serpentine bordered the location of Davis-Johnson Park, there was the possibility that the drainage issues could be addressed as part of the Improvements to the Rose Garden at Davis-Johnson Park Project. After bids were received, the Borough Engineer reviewed the alternate bid and felt that it would actually degrade the remedying of stormwater runoff in the park. In addition, since the project was initially estimated to cost \$42,000, he did not feel that the \$6,000 bid would accomplish anything significant.

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G. Developer's Agreement/Major Soil Movement/108 Buckingham Road

It was explained that the developer for 108 Buckingham Road felt that the soil movement ordinance fails to differentiate between an intermediate application and a major application. The question arose as to whether an amendment to this ordinance was necessary. Frank Mottola explained that Borough Engineer reviews each application on a case-by-case basis and decides if it is necessary to take it to the Planning Board for additional approval. It was decided that an amendment was not necessary.

The Developer's Agreement is to be placed on the August 10 agenda.

Borough Administrator asked that item 1-M be addressed next as it also involved Mr. Mottola's input. Council agreed.

M. Basketball Hoops in Front Yards ordinance

Frank Mottola explained that from a zoning perspective, a basketball hoop is considered an accessory structure and by code, it is required to be in the rear-yard. Mr. Mottola proposed that basketball hoops be removed from the list of accessory structures. The Council agreed and the resolution to introduce this ordinance will be placed on the August 10 agenda.

H. Commuter Parking incident/Municipal Court report

Administrator advised that this issue is still under research. She explained that no action by the Council is required, but she would like to report to the Council on this matter.

I. S-29/tax levy cap now at 2%/consider adopting resolution re "tool kit"

Council agreed to support them. A resolution will be placed on the August 10 agenda.

J. Request for holiday display in Huyler Park/placement of display

See above

K. Approve Agreement with Bergen County/Aquatic Chair Lifts

It was noted that the Tenaflly Swim Club refused the Aquatic Chair Lift grant. Borough Attorney McClure sent a letter to the swim club to correct misinformation that the club had received about other ADA requirements needed to be met if the swim club were to accept the aquatic chair lifts. The attorney for the swim club explained that although they understood that there was not a legal requirement to make other facilities ADA compliant, the swim club felt that changes of this nature would be necessary. The swim club, therefore, did not want to accept the lifts.

It was decided that Mayor Rustin will reach out to the President of the Swim Club to discuss this matter again.

L. Dean Drive Drainage Project Closeout and Final Change Order

Borough Administrator explained that this item is not only a final change order, but it is the accounting for the entire project. The project had been budgeted for \$983,000, and the final total cost was \$1,000,000, resulting in a difference of 3%. She did note that one of the biggest changes was an over expenditure in item #36 for approximately \$30,000. This item pertained to police traffic directors who were needed 433 hours more than estimated. Administrator further explained that the contractor was not given the option of using flagmen in place of police and she thinks that the option of flagmen should be explored more in future projects. It was decided that when expenditures exceeding the budgeted amount are necessary, it should first be brought to the Council for approval.

N. NJDOT Municipal Aid Application: due August 13 via SAGE

Borough Administrator referred the Council to an update memo listed under the Administrator's report in which recommendations on upcoming grants are outlined. In regard to this particular grant, she advised that Bob Beutel and David Hals are recommending that Council consider resurfacing Tenaflly Road from Central Avenue to the Englewood border. They noted, however, that Tenaflly Road would also require sewer repairs

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and the cost of these repairs would need to be considered if this project were to be undertaken. The second option for this grant would be repaving Columbus Drive from Jefferson Avenue to Grove Street. After some discussion about both options, the Council decided to use this grant for the repaving of Columbus Drive. The Council noted that this project would need to take place during the summer months as this section of Columbus Drive is used to access both the Middle School and High School.

O. HPC revised letter for Council review (from 7/6 mtg)

The Council praised the HPC's letter, but felt a sentence should be added at the end of the letter repeating that this service is completely voluntary.

P. Lighting Policy on Municipal Field

Councilwoman LaMastra explained that the noise and parking from events were more of a concern than the lighting. The noise issue has been addressed by limiting use of the megaphone. In order to address parking problem, the Recreation Board will work with the police to institute polices such as limiting parking to one side of the street. Mayor Rustin did raise concern that although games sometimes end earlier than 10:00 pm, there is no one to contact to have them shut off. It was agreed that a Recreation employee should be designated as the contact to have the lights turned off should a game end earlier than 10:00 pm.

2. **ADMINISTRATOR'S REPORT**

A. Backstand at Huyler Park (from 7/6 meeting)

B. ERT Bid update/decision by September 1

C. 2010 Open Space Grant Recommendations due October 8

Borough Administrator explained the different options for this grant. Council agreed that Huyler and Sunnyside Parks should receive priority.

D. 2010 CDBG Grant Recommendations due October 8

E. UCC Report-monthly report submission

Because of time constraints, it was decided that the remaining items on the Administrator's Report would be addressed at the August 10 Public Meeting.

3. **CORRESPONDENCE**

A. Geelan/East Clinton

Re: Request/Waiver of Alarm Penalty

B. BC Dept of Planning

Re: Invitation to apply for Open Space Grants for 2010 Easement Program

C. M. Rosenberg/Downey Drive

Re: Sidewalk on Downey Drive

See above

D. O. Chen/Woodland St.

Re: Request for refund/cancelled street opening on Sunset Lane

E. F. Keen/Oak Ave.

Re: Senior and Disabled Residents

F. J. Horan/Knickerbocker Rd

Re: Block Party on Buff/8-28-10

G. A. Liebowitz, Esq.

Re: Block 1910 Lot 11 Right of Way

H. B. Lorenzo/Engle Street

Re: Board of Adjustment Lawsuit/defense of volunteer

I. NJ DEP

Re: Community Forestry Management

J. League of Municipalities

Re: COAH/Affordable Housing Reform

K. David Wall. HPC Chair

Re: Davis-Johnson Park Improvements

See above

L. D. Hughes/Farmer's Market

Re: Banner request/Washington Street

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M. Smith School HAS

Re: Downey Drive Sidewalk issue

Borough Administrator explained that items 3A, G, & H would require legal advice. All remaining correspondence items will be addressed at the August 10 Public Meeting.

4. **CLOSED SESSION**

At 9:59 p.m., the Borough Attorney read the following resolution:

Motion by Councilman Rouse, second by Councilman Lattif, and unanimously carried:

RESOLVED that in accordance with N.J.S.A. 10:4-12, the Mayor and Council will go into Closed Executive Session for the purpose of discussing the following matters:

- A. Legal
- B. Personnel
  - 1. Elevator Sub-Code Official disciplinary matter
  - 2. 2010 increases for Non-represented employees
  - 3. Review of Contract issues for bargaining unit negotiations
  - 4. Schedule performance evaluation of Administrator per contract

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

5. **RESOLUTIONS for the meeting of August 10, 2010**

- A. Approve August Expenditures
- B. ~~Rescind access to Recycling Center~~ Withdrawn
- C. Appointment of Borough Clerk?
- D. Approve Refund/Tree Removal Mitigation Escrow/donation to Tree Replacement Trust Fund/188 Knickerbocker Road/\$2520 and \$2000
- E. Approve of water extensions for 54 Central Avenue and 11 Huyler
- F. Refund/Street Opening Bonds/Permit No. 1048
- G. Approve Raffle App #973/Englewood Hospital/Aept. 14, 2010 and App #974/St. Thomas Armenian Church/October 24, 2010
- H. Dean Drive Drainage Project Change Order
- I. Reject bids and authorize re-bids/ERT vehicle for Police Department
- J. Revise Depositories of Funds

6. **PUBLIC HEARINGS for meeting of August 10, 2010:**

- A. Ordinances: Ordinance No. 10-23/Ballot Question on Light Rail
- B. Other: BID budget hearing

7. **COMMITTEE REPORTS**

8. **MINUTES to be approved:**
- Work Session of July 6, 2010
  - Public Meeting of July 13, 2010
  - Closed Session of July 13, 2010

9. **OLD BUSINESS**

- A. ~~from 2-3-09 COW/ Fire Dept recognition to be scheduled, and (from 10/6/09) revisions to Fire Department Ordinance~~

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- B. ~~[[from 2-3-09 COW] Building Numbers/Map Revised Ordinance to be reviewed.~~
- C. ~~[[from 2/23/10 COW] Review GIS~~

10. **FOR THE GOOD OF THE ORDER**

11. **ADJOURNMENT**

As there was no further business to come before the Council, on a motion by Councilwoman LaMastra, second by Councilman Warms, and unanimously carried, to adjourn this meeting. The meeting was adjourned at 11:16 p.m.

Respectfully submitted,

Jewel Thompson-Chin, Acting Borough Clerk