

Borough of Tenafly

MAYOR AND COUNCIL

COMMITTEE OF THE WHOLE

MINUTES

TUESDAY, APRIL 24, 2012

The meeting was called to order at 7:33 P.M. with the reading of the Open Public Meetings Act statement by Mayor Rustin, "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."

Present: Mayor Peter S. Rustin
Council members: Council members Anthony Barzelatto, Barry Honig
Martha Kerge (arrived at 7:41 p.m.), Nadia LaMastra,
Jon Warms, and Mark Zinna

Borough Administrator: Jewel Thompson-Chin
Borough Attorney: William R. McClure, Esq.
Chief Financial Officer: Gene Vinci

Absent: None

CLOSED SESSION

Mayor Rustin recognized Borough Attorney William McClure, who read into the record Resolution 12-149.

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. Litigation/Attorney-Client Privilege.
 1. Kurtz v. Borough of Tenafly et al

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. Zinna, and all present voting in favor, the meeting was recessed to the Closed Session in the Committee Room at 7:34 p.m.

The Committee of the Whole Meeting resumed at 7:53 p.m.

TO BE CONSIDERED

Status of 2012 Budget Adoption

Mrs. Thompson-Chin advised that on certain years communities can perform self-examination of their budgets; however this year Tenafly's budget subject to DCA's approval. The DCA sent an e-mail indicating that they don't have sufficient staff to complete reviews timely. Mr. Vinci advised that he has never seen this situation and he has not been able to get confirmation from DCA as to the time period when review will be completed. He advised the DCA of upcoming meetings in May. Although a regular public meeting is scheduled for May 15th, Council may need to have a special public meeting on May 8th if the DCA has completed its review. The hearing will take place tonight, but the budget cannot be adopted.

Planning Board Recommendations

i. Amend LDR – Technical Review Escrow Deposits.

C. Warms explained that on numerous occasions the Planning Board has had to change work sessions into public meetings per applicants' requests. Therefore, the Planning Board is recommending charging \$500 to cover costs associated for professional fees. This only applies if applicant wants a hearing earlier than schedule warrants. Council concurred with recommendation and directed the Borough Attorney to prepare an ordinance reflecting these amendments.

ii. Support United Way Affordable Housing Project

Mayor Rustin advised that the DCA requested a resolution support to have an actual project identified as conceptual approval of project in order to expend affordable housing funds. C. Honig stated that he was seeking the opinion from the COAH Attorney, Stuart Koenig. Mayor Rustin responded that he just received an e-mail from Mr. Koenig, who reviewed the resolution and has not difficulty with it, but he does not want reference to developer's agreement. Council will discuss the e-mail in Closed Session later this evening.

C. Honig described the visit to the Allendale facility and stated that the idea for this type of is a good thing to do, but doesn't like sample developer's agreement because it doesn't reflect the structure presented in the work session. He noted that it seems like Borough will be the sponsor with no mention of the third party non-profit and will be providing the funds for property acquisition and construction. Mr. McClure responded that in effort to obtain approval from the DCA, the Borough is listed on the draft as the primary party, with the right to assign the responsibility to a 501(c)(3) corporation, because the entity does not exist yet. Mr. Toronto of the Bergen County United Way clarified that the owner of the property and sponsor of the project will be the non-profit. The Bergen County United Way is the developer who will scour for construction funding via grants, but the grants will be received by the sponsor as it is always the sponsor who is the applicant for grant funding. The Bergen County United Way will be working in a developer function on behalf of the sponsor of the project. The contract and property will be assigned at a later date to an entity to be created as a non-profit. The only connection the Borough has is trying to get permission from the state to use COAH funds that have already been collected. The developer's agreement is just a place holder template to satisfy the DCA. Mr. McClure noted that it is only a draft and there are not any signatures on the document.

C. Kerge inquired what would happen if the non-profit cannot obtain funding for the construction and development of the project. Mr. Toronto responded that there is a performance deadline and accountability language in the official developer's agreement and that in the worst case scenario the Borough will own a valuable piece of property. C. Honig commented that he was not comfortable with the language in the resolution. Mr. McClure advised that there is no obligation to the Borough since the purpose of resolution is to authorize the appropriate officials to send documents down to the DCA to obtain approval to acquire the property. Council will not be voting to approve the particular form of the developer's agreement.

C. Barzelatto stated that he agreed with the concept. C. Zinna noted that the resolution states it is a draft developer's agreement. The consensus of the majority was to move ahead with the resolution.

Sewer Inspections/Smoke Detector Inspections

Council determined not to make any further changes at this time to the ordinance regarding sewer inspections.

ADMINISTRATOR'S REPORT

Mrs. Thompson-Chin advised that the downtown parking and circulation study has resumed since the DEIS response has been completed. Mayor Rustin noted that the study is large enough and important enough to schedule a special meeting. Mrs. Thompson-Chin will reach out to Mark Gordon to coordinate a special Council meeting to discuss the study.

Mrs. Thompson-Chin reported that DPW Director Bob Beutel visited Hudson Avenue property and observed the replanting of trees on the property perimeter has commenced as of April 12, 2012. Since the problem at the subject site is being mitigated, and the Borough Engineer is not available to attend the May 8th work session, she recommended that they be scheduled to attend the June 12th work session to have wider discussion on tree ordinance. Council concurred.

Mrs. Thompson-Chin noted that she contacted Englewood, Westwood, and Closter regarding a permit fee waive permit due to severe storms. These communities do not currently have legislation of this nature related to storms. However, Closter has an Ordinance to waive certain fees for charitable organizations and disabled residents making accessibility improvements to their personal residences. She proved resolutions from New Milford, which grant a partial waiver of permit fees on a case-by-case basis, which is more of a discount

since the portion of the fee that is due to the State cannot be waived. Council requested to list this matter for consideration at the May 8th work session.

Mrs. Thompson-Chin updated Council on the details of the internship program that will take place during the summer, which is appropriated from the Borough Administrator's budget and will communicate with the schools about the program.

CORRESPONDENCE

A. MCANJ RE: Resolution Opposing S-1451 & S-1452
Council approved listing a resolution on the May 15th consent agenda.

B. Jewish Family Service RE: Request for portable toilets for bicycle event
Council approved the request and requested that the Borough Clerk advise the Event Manager.

C. Borough of Westwood RE: Resolution Opposing Bergen County Policy on Bridge Culverts
Council approved listing a resolution on the May 15th consent agenda.

D. Kaplen JCC on the Palisades RE: Request for portable toilets for Ruben Run
Council determined that the request is not applicable since the area in question is in Englewood.

E. American Cancer Society RE: Banner Request
Council approved the request contingent on the availability of space since there will be a banner for the farmers' market.

RESOLUTIONS for meeting of April 24, 2012:

- A. Approve Expenditures as of April 18, 2012.
- B. Authorize Tree Mitigation Escrow Refund/56 Norman Place
- C. Support A-2717/4-Year Extension to Expend Municipal Housing Trust Fund Dollars
- D. Authorize Use Variance Escrow Refund/26 Washington Street
- E. Authorize Execution of 2011 Recycling Tonnage Program Reporting Form
- F. Authorize Performance Bond Refund/Jewish Community Center
- G. Authorize Use Variance Escrow Refund/VCA Group LLC
- H. Certify 2011 Recycling Tax Reimbursement
- I. Authorize Planning Board Escrow Refund/Grove Street at Tenafly, LLC
- J. Authorize Street Opening Refunds/Various
- K. Support A-2454/Eliminate Unemployment Benefits for Seasonal Workers
- L. Authorize Execution of Certificates of Exemption/Fire Department
- M. Authorize Tree Mitigation Escrow Refund/100 Hillside Avenue
- N. Authorize Use Variance Escrow Refund/30 Riveredge Road
- O. Amend 2012 Meeting Schedule/Special Closed Session/May 8, 2012
- P. Authorize Steep Slope Variance Refund/52 Churchill Road
- Q. Extend Contract for Dedicated Project Services
- R. Authorize Receipt of Bids/Resurfacing of Columbus Drive
- S. Authorize Site Plan/Use Variance Escrow Refund/22 Jersey Avenue
- T. Authorize Refunds/Tax Court Judgments 2009-2011/Various
- U. Approve Raffle Applications RA1018 - RA1020
- V. Authorize Tree Mitigation Escrow Refund/151 Deerfield Drive

C. Honig inquired about Resolution Q, specifically why the Borough needs to continue paying project manager. Mrs. Thompson-Chin responded that the Borough does not have a final certificate of occupancy for the Police headquarters, there is only a temporary c/o due to a variety of punch list items that need to be completed, the need to continue testing systems, and closing out various activities. She believes that the project will be complete before May 31st. C. LaMastra noted that the resolution states the cost of extending the contract is not to exceed \$10,000. C. Honig requested to pull Resolutions Q and V for separate voting under New Business.

Minutes to be approved: March 27, 2012 Work Session
March 27, 2012 Public Meeting
March 27, 2012 Closed Session

There were no comments on the minutes listed for approval.

FOR THE GOOD OF THE ORDER

Senior Center (C. Barzelatto)

Due to the late hour as there were several public hearings, this item will be listed for a future work session.

CLOSED SESSION

Mayor Rustin recognized Borough Attorney William McClure, who read into the record Resolution 12-149A.

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. Litigation/Attorney-Client Privilege.
 - 1. COAH Attorney Recommendation on Resolution to DCA

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 Council Chambers to commence the Regular Public meeting.

On a motion from C. Zinna, seconded by C. Kerge, and all present voting in favor, the meeting was recessed to the Closed Session in the Committee Room at 9:08 p.m.

ADJOURNMENT:

As there was no further business to come before the Council, on a motion by C. Zinna, second by C. Kerge, and unanimously carried, to adjourn this meeting. The meeting was adjourned at 9:08 p.m.

Respectfully submitted,

Lissette Aportela-Hernandez, MPA, RMC
Borough Clerk