

Borough of Tenafly

MAYOR AND COUNCIL

MINUTES

TUESDAY, JANUARY 25, 2011

PRESENT: Mayor Peter Rustin and Council members Anthony Barzelatto, Barry Honig, Martha Kerge, Nadia LaMastra, Michael Lattif, and Jon Warms

ABSENT: None

ALSO

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

At 8:38 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 listed in the Annual Agenda; copies are sent to the Press Journal, Record, Suburbanite, Northern Valley News and posted on the bulletin board in the lobby of the Municipal Center.”

The Salute to the Flag was led by Mayor Peter Rustin.

Motion by C. LaMastra, second by C. Lattif and unanimously carried,

BE IT RESOLVED that the Minutes of the January 2, 2011 Recess Meeting and January 2, 2011 Reorganization Meeting, are hereby approved.

REVISIONS TO THE AGENDA – None.

AUDIENCE REMARKS FOR AGENDA ITEMS:

Eugene Marcantonio, 50 Morris Road, stated that he was in support of reappointing David Hals as Borough Engineer. He stated that he is a member of the Planning Board and Mr. Hals always outshines the other engineers. He pointed out that Mr. Hals is a staunch protector of Tenafly and charges less money than engineers in other towns and on those grounds alone he should be reappointed.

Melvin Lubins, 33 Stonybrook Road, stated that he was personally affected by an error in the Borough Engineer’s judgment. He pointed out that the Borough Engineer was in charge of the grading on Engle Street that needed to be repaved and is still not in good condition. He also expressed his opinion that the drainage system on Engle does not work.

Bill Haase, 91 Fieldcrest, Edison, NJ, read a letter from Jack Kocsis, the Chief Executive Officer of the Building Contractors Association of New Jersey stating the reasons for prevailing wages. Mayor Rustin noted that this letter was being presented in relationship to item 4-F under Correspondence on the Work Session agenda. Mayor Rustin explained that Mr. Haase’s letter informs the Borough that Santorini Construction, the contractor awarded the Police Headquarters Project, had been found in violation of prevailing wage laws.

Johanne Gambrill, 15 Ravine Road, questioned how amending the garbage contract to one pickup a week will save the Borough money. She expressed her opinion that having students help in bringing the garbage to the curb is very impractical. She also suggested a means to save the Borough money is to not hire any consultants.

Ernest Kollitides, 164 E. Clinton Avenue, expressed his opinion that there is a need for the town to engage another engineer. Should the Council decide to engage another engineer, he asked that this person be experienced in flood control, hydraulics, soil mechanics, and runoff. He also suggested focusing on a firm rather than a single engineer.

CONSENT AGENDA

- A. #R11-55/Approve Expenditures as of January 19, 2011
- B. #R11-56/Authorize Redemption for Tax Title Lien TTL 10-3.
- C. #R11-57/Amend 2011 Meeting Schedule.
- D. #R11-58/Request the State Legislature and the Governor to Exempt the Reserve for Uncollected Taxes from the 2% CAP.
- E. #R11-59/Approve Increase in Public Bidding Threshold to \$36,000.00
- F. #R11-60/Approve Refund/Tree Mitigation Escrow/42 Kent Road/\$3,000
- G. #R11-61/ Approve Refund for Recreation Classes.
- H. #R11-62/ Approve Refund/Tree Mitigation Escrow/77 Sussex Road/\$1,800
- I. #R11-63/Approve Bond Reduction – Grove Street at Tenafly, LLC
- J. #R11-64/Approve Refunds – Tax Court Judgments for 2009 & 2010.
- K. #R11-66/Authorize Redemption for Tax Title Lien TTL 10-6

Motion by C. Kerge, second by C. Lattif that the Consent Agenda be approved.

On a roll call, the vote on the Consent Agenda was recorded as follows:

| | | | |
|----------------|-----|--------------|-----|
| C. Barzelatto: | aye | C. LaMastra: | aye |
| C. Honig: | aye | C. Lattif: | aye |
| C. Kerge: | aye | C. Warms: | aye |

All members present voting in favor, the Consent Agenda was approved.

PUBLIC HEARINGS

A. Ordinances

The following ordinance published herewith was first read by title only on January 11, 2011, and posted on the bulletin board of the lobby of the municipal center.

ORDINANCE NO. 11-01 - AN ORDINANCE TO AMEND THE SALARY, WAGE OR COMPENSATION OF THE RANK OF POLICE CAPTAIN OF THE POLICE DEPARTMENT OF THE BOROUGH OF TENAFLY IN THE COUNTY OF BERGEN AND STATE OF NEW JERSEY, FOR THE CALENDAR YEARS 2011 AND 2012.

Public Comments on Ordinance 11-01 – None.

Motion by C. Barzelatto, second by C. LaMastra, that Ordinance 11-01 be passed on second and final reading and is hereby adopted and notice of same shall be published according to law.

C. Honig stated that he would be voting no to this ordinance. He explained that he is not voting no because he disagrees with lowering the step increase from 10% to 4%, but, rather, because this ordinance affirms the rest of the salary structure and organizational table. He expressed his opinion that every aspect of this ordinance needs discussed and analyzed.

C. Warms expressed that a 4% increase is too high in this economy. He understands that the increased responsibilities of the rank of Captain do warrant a pay increase, but he feels this increase should be consistent with what the budget can handle.

C. Lattif agreed with C. Honig that this ordinance does seem to reaffirm all other aspects of the salary ordinance and questioned the reason for this reaffirmation. Borough Administrator Thompson-Chin explained that an ordinance needs to be amended through another ordinance and changes are only made in the section of the ordinance to which the amendment is being made. She also remarked that this ordinance covers both non-represented and represented employees and much of the ordinance is ratified through collective bargaining unit contracts. She suggested that, in the future, ordinances do not combine both represented and non-represented employees into one ordinance. Borough Attorney McClure advised that when amending an ordinance, it is common practice to state that all other sections of the ordinance remain the same. C. Honig questioned whether it is possible to draft an ordinance that segregates that Captain’s salary step increase to which Borough Attorney McClure stated that it is possible so long as it doesn’t make anything else unclear.

C. Barzelatto pointed out that the governing body is reducing the salary of the Captain position through this ordinance. He also reminded Council that there is a lot more responsibility that comes along with this position and that increased responsibility needs to be compensated appropriately.

Mayor Rustin remarked that this change is not a 4% salary increase as C. Warms had stated; it is a change in the differential between Lieutenant and Captain from 10% to 4%. He explained that the governing body is required by State Statute to pay the Captains more than Lieutenants just as they are required to pay the Chief of Police more than the Captains. C. Warms responded that he had misspoken, but he still believes that a promotional increase of 4% in the year 2011 is too high.

C. Kerge stated that she will be voting yes as she feels that the Council changed all that they could in regard to this ordinance. She further stated that although she may not agree with everything in this ordinance, Council does not have the ability to change it as it is covered by contract.

On a roll call, the vote on the Consent Agenda was recorded as follows:

| | | | |
|----------------|-----|--------------|-----|
| C. Barzelatto: | aye | C. LaMastra: | aye |
| C. Honig: | nay | C. Lattif: | aye |
| C. Kerge: | aye | C. Warms: | nay |

B. Other – None.

COMMITTEE REPORTS

Councilman Honig

Mr. Honig reported that he had attended an ADA Committee meeting last Wednesday. The committee would like to administer special needs ID cards listing certain identifying information such as address and medications. Mr. Honig advised that he had referred this request to Borough Attorney McClure and Chief Bruno for their input. Chief Bruno responded that an ID can be obtained through the Recreation Department, however, there is a concern about privacy without it being administered by the Police Department.

Mr. Honig advised that the Planning Board is scheduled to meet tomorrow.

Councilman Barzelatto

None.

Councilman Warms

Mr. Warms reported that the Chamber of Commerce had held its Reorganization Meeting on Tuesday the 18th. Gerry Migliore was reelected as President and Suzanne Huguley as Vice President. Carol Schulter has been elected to the new position of 2nd Vice President of Community Affairs. There will be a Craft Fair on October 15 and 16, 2011. The Chamber was very pleased with the use of oval park for Woofstock was held and expressed their desire to use this location for future events.

Councilman Lattif

Mr. Lattif reported that the Senior Center Board of Directors met on Monday. There was the discussion about the need for more parking spaces in general but particularly when during the winter months when snow is an issue. An issue that is adding to the parking problems is the use of southerly spaces by those not using the Senior Center. The board is requesting that enforcement needs be implemented.

They also discussed that they are running out of space in their programs due to their great success. The Board of Directors expressed their appreciation to the Mayor and Council and Borough Administrator for hiring their Assistant Director.

Mayor Rustin remarked that there is a vacant private parking lot by CVS that has 20 or 30 spots and suggested that the Borough Administrator look into acquiring that lot for use by the Senior Center. C. LaMastra suggested the use of either the McCandless Room or Youth Center for the Senior Center programming.

Councilwoman LaMastra

Ms. LaMastra reported that the Police Commission met to discuss the process for the promotion of the Captains. Chief Bruno is preparing a list of questions and criteria to be used in the interview process. The Police Commission will meet again on Friday to review the questions and refine how the process will work.

The BID Board met for the second time this month and interviewed two finalists for the position of BID Director. One more finalist will be interviewed on Thursday. Ms. LaMastra reported that Cathy McCullough had resigned from the BID Board and asked whether the BID Board or governing body would make the new appointment. Borough Attorney McClure advised that the BID Board would make the new appointment. Ms. LaMastra then stated that the new appointment would be Paul Keyes who has already been interviewed. Mr. Kutik, treasurer, will be opening an account for the transfer of funds from the Borough to the BID.

Councilman Kerge

Ms. Kerge reported that Historic Preservation had met on the 13th and discussed applications before the Board of Adjustment that were of concern. The Commission also discussed plans received from Hackensack for more residential housing to be built by the Clinton Inn. Ms. Kerge questioned whether this application is before the Planning Board. Mayor Rustin responded that it will be before the Planning Board and advised that this plan is a part of a situation with COAH. He advised that the Planning Board is unsure how to handle this application as it has not been determined whether housing will be able to be counted for COAH; the board will have to rely on its COAH attorney for guidance.

OLD BUSINESS – None.

NEW BUSINESS

Appointment of the Borough Engineer:

C. LaMastra questioned the reason that Council was advised not to have discussion on their vote for the appointment of the Borough Engineer. Borough Attorney McClure responded that there should not be discussion on confirmation votes, but does not believe that there is a rule against it. C. Kerge expressed her opinion that the discussion should take place prior to the vote as opposed to when casting the vote. Mayor Rustin agreed that since this confirmation is controversial, the members of the governing body should be able to explain their vote.

Motion by C. Lattif, second by C. Honig, that the appointment of the Borough Engineer be taken from the table.

On a roll call, the vote was recorded as follows:

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|----------------|-----|--------------|-----|
| C. Barzelatto: | aye | C. LaMastra: | aye |
| C. Honig: | aye | C. Lattif: | aye |
| C. Kerge: | aye | C. Warms: | aye |

Motion by C. Barzelatto, second by C. Warms, that #R11-65/Appoint Borough Engineer is approved.

C. Honig addressed Mr. Marcantonio’s remarks during public comment and stated that he is not looking to make change for the sake of change. He explained that he will be voting no because of his set of observations about the current Borough Engineer. He stated that he was moved by Mr. Lubins. He explained that he, too, had a situation on his own street with drainage due to a project that the Borough Engineer had approved. He also pointed out several other issues that resulted due failures in the Borough Engineer’s foresight.

C. Barzelatto stated that he would be voting yes. He explained that he had spoken to residents and professionals who support the Borough Engineer. He suggested that, if there are issues in the future that the governing body feels need to be addressed, the Borough Engineer should be brought in to answer any questions that the governing body may have.

C. Warms expressed his opinion that the time is not right to replace the Borough Engineer; the search for a new engineer should start after the budget. He also expressed his opinion that the governing body should not remove the current Borough Engineer without having another engineer in mind. He remarked that he is very happy with Mr. Hals’ work in general. C. LaMastra pointed out that David Hals would stay on as Acting Borough Engineer until a new one is appointed.

C. Lattif pointed out that the residents on Magnolia have had large out-of-pocket expenses due to inappropriate drainage requirements of a developer. He stated that too many residents have had to pay for the ineffective planning of the Borough Engineer.

C. LaMastra stated that while she respects the working relationship that Mr. Hals has developed with the various boards and the Borough Administrator, the governing body has a responsibility to understand that the Borough is getting the best service for their money. She stated that an RFQ has not been done in a number of years and she feels it is time to do so. She pointed out the Mr. Hals can always reapply.

C. Kerge stated that although she hates to lose the intellectual history that Mr. Hals has with having worked with the Borough for so many years, she agrees with C. LaMastra that the time has come to go through the RFQ process. She pointed out that Mr. Hals is working with the Planning Board and they can choose to keep him as their engineer. She stated that she will be voting no.

C. Honig pointed out that all-in costs have to be looked at and these include escrows paid to the Engineer and the cost of having to redo work. He expressed his opinion that fair value can only be understood if an RFQ is put out. He expressed his hope that Mr. Hals would stay on during the transition period.

Mayor Rustin expressed his opinion that the Borough Engineer should be reappointed. He stated that he is in agreement that it is the time for an RFQ, but the Borough Engineer should be reappointed for this year and an RFQ be put out in the middle of the year for an appointment in 2012. He stressed the importance of having Mr. Hals continue during the Police Headquarters Project. He pointed out that our engineering fees are a lot lower than those charged in surrounding towns. Mayor Rustin ended by stating that the Council would be failing the town if they were not to reappointment the Borough Engineer.

On a roll call, the vote was recorded as follows:

| | | | |
|----------------|-----|--------------|-----|
| C. Barzelatto: | aye | C. LaMastra: | nay |
| C. Honig: | nay | C. Lattif: | nay |
| C. Kerge: | nay | C. Warms: | aye |

The resolution did not pass.

Other New Business:

Due to the recent tragedy in Tucson, C. Barzelatto raised the issue of safety of both the public officials and residents at meetings. He asked that the Borough Administrator reach out to Chief Bruno for his input on screening tactics that can be used at meetings, court sessions, etc.

C. LaMastra asked that the Council receive a report on the status of the revaluation at the next meeting. She also requested that there be a discussion about the agendas and the way in which the items are organized and prioritized. She mentioned that there was an article in the Record regarding FEMA funding for the December 26th storm and questioned why Tenafly was not included. C. Barzelatto responded that it was his understanding that the Borough chose not to disclose this information, but assured the Council that the paperwork has been filed.

MAYOR'S REMARKS

Mayor Rustin expressed his concern with the direction that this Council is taking. He reminded Council that their goal is to create a budget that's going to address the issue of taxes. He feels that the decisions not to reappoint the Labor Attorney and Borough Engineer are only going to significantly increase costs. He expressed his opinion that to make a change without having someone else in place is irresponsible and he cannot support the Council's decision.

C. Lattif responded that he appreciates the Mayor's comments, but remarked that they sounded very familiar to the speech that he made when the Borough Administrator and Clerk resigned. C. Lattif pointed out that there have been a lot of benefits realized by having a new Borough Administrator and Clerk that could not have been predicted. These benefits include new ideas and improvements in processes that have saved the Borough money. Mayor Rustin pointed out that C. Lattif did not mention the cost of the searches and interim Borough Administrator that resulted in over \$100,000 to the budget. He stated that it was never the former Borough Administrator or Clerk who prevented the Council from creating new ideas or refining processes.

C. Honig remarked that change is always scary, but it simply needs to be managed correctly. He pointed out that the current Borough Engineer will continue in the interim and can always reapply for the position. In regard to the labor attorney, C. Honig expressed his opinion that the Borough will receive multiples of returns on their investment.

CLOSED SESSION

Mayor Rustin recognized Borough Attorney William McClure, who read into the record Resolution #R11-67:

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. Schedule for Evaluation of Borough Administrator
 - 2. Retiree Health Benefits 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 Room to reopen the meeting of the Committee of the Whole and resume reviewing the balance of the agenda items.

There being no further business to come before the Council, on a motion from C. LaMastra, seconded by C. Lattif, and all present voting in favor, the meeting was adjourned to the Closed Session in the Committee Room at 10:07 p.m.

Respectfully submitted,

Lissette Aportela-Hernandez
Borough Clerk