

# **Borough of Tenafly**

## **MAYOR AND COUNCIL**

### **MINUTES**

**TUESDAY, MAY 24, 2011**

**PRESENT:** Mayor Peter Rustin and Council members Barry Honig, Martha Kerge, Nadia LaMastra, Michael Lattif, and Jon Warme

**ABSENT:** Councilman Barzelatto

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

At 8:50 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. Kerge, second by C. LaMastra and unanimously carried,

BE IT RESOLVED that the Minutes of the February 24, 2011 Budget Meeting, February 28, 2011 Budget Meeting, March 1, 2011 Committee of the Whole, March 1, 2011 Closed Session (not to be released), March 3, 2011 Budget Meeting, March 7, 2011 Special Closed Session (not to be released), May 3, 2011 Closed Session (not to be released), May 3, 2011 Committee of the Whole, May 10, 2011 Special Closed Session (not to be released), May 10, 2011 Public Meeting, May 10, 2011 Closed Session (not to be released), and May 17, 2011 Special Committee of the Whole are hereby approved as amended.

#### **REVISIONS TO AGENDA:**

Borough Attorney McClure advised that Resolution #R11-166 is being removed from Old Business and will continue to be tabled.

#### **PRESENTATIONS:**

Recognition of the 7<sup>th</sup> and 8<sup>th</sup> Grade Tenafly Recreation Boys' Basketball Traveling Teams.

Mayor Rustin first congratulated the 7<sup>th</sup> Grade Tenafly Recreation Boys' Basketball Traveling Team for winning their championship for the third year in a row and presented them with a proclamation. He then asked the 8<sup>th</sup> Grade Tenafly Recreation Boy's Traveling Team to come forward. He congratulated them on winning their championship for the sixth year in a row and also presented them with a proclamation.

## PUBLIC COMMENTS:

David Wall, 11 Cameron Road, Chairman of the Historic Preservation Commission, wanted to address the issue of solar panels and certificates of appropriateness. He asked for quick action from the Mayor and Council to stop the installation of the solar panels in the landmark district. He advised that along Davis Johnson Park, there is currently a solar panel installed above the Atwood's Highwood Historic District sign. He does not feel as though PSE&G should be able to escape the requirements within the local ordinance.

Mayor Rustin responded that he had reached out to the government relations liaison at PSE&G who stated that panels would not be installed in historic districts. Borough Administrator Thompson-Chin will write a letter to PSE&G asking them to remove any solar panels installed within the historic district. C. Honig asked for legal clarification and Borough Attorney McClure advised that State laws and regulations regarding utility poles would supersede any Borough ordinance. C. LaMastra pointed out that Westwood had challenged the installation of the solar panels and were unsuccessful.

Robert Obernauer, 343 Tenaflly Road, expressed his opinion that the Borough has some of the most qualified employees and feels as though Paula Cozzarelli, BID director, should be given more power to enact changes without interference from the Board of Adjustment. He questioned how the Board of Adjustment has allowed 7-11 to construct a building in the middle of town. He advised that he had attempted to build an auto body shop with a mom and pop convenience store and the Board of Adjustment denied his application. He asked that the Council enact local laws to stop chains like 7-11 from coming into town.

C. Honig questioned whether 7-11 had purchased or are leasing the property. Mayor Rustin advised that the applicant was known as County Tiger and was initially presented as a mini-mart. He stated that he is unsure when 7-11 became involved. C. Honig questioned if there is a legal issue. Borough Attorney McClure advised that he is not aware of any legal issues, but directed C. Honig to speak with Jeffrey Zenn, attorney for the Planning Board. Council decided to place this issue on a work session for discussion. C. Kerge questioned whether a mini-mart is permitted in the B-1 zone. Borough Attorney McClure responded that it must have been a permitted use as the applicant was not required to go to the Board of Adjustment. C. Lattif commented that when you defer to the technicalities of the law, aesthetics are not taken into account and buildings such as these are permitted to be built. Mayor Rustin stated that although he believes architectural boards have been formed in some towns, he does not think that they work and he would not suggest it in Tenaflly. He then asked Borough Attorney McClure whether they are even permitted and Borough Attorney McClure responded that although he is not certain, he believes that architectural boards exist in other towns. He added that BIDs can be very active in this particular area.

## CONSENT AGENDA:

- A. **#R11-179**/Approve Expenditures as of May 18, 2011
- B. **#R11-180**/Approve Refund/Soil Moving and New Construction/193 West Clinton Avenue/\$6,500.
- C. **#R11-181**/Approve Outdoor Seating Permits/Sparkie's Brick Oven Café and Simply Vietnamese.
- D. **#R11-182**/Approve Refunds – Tax Court Judgments for 2009 & 2010
- E. **#R11-183**/Approve Refund of Tax Overpayments.
- F. **#R11-184**/Approve Refund/Tree Mitigation/14 Park Street/\$7,200
- G. **#R11-185**/Approve Raffle Application #RA997/Tenaflly Nature Center/09-17-11
- H. **#R11-186**/Approve Ice Cream Peddler License No. I-3-2011/Hilco

- I. **#R11-187**/Approve Refunds/Recreation Classes.
- J. **#R11-188**/Award Contract/ADA Compliant Pool Lifts – Nautilus Swimming Supplies & Service, Inc.
- K. **#R11-189**/Award Contract/2011 Road Resurfacing Program/Riverside Co-Op – D& L Paving.

Motion by C. LaMastra, 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:	absent	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:**

**Ordinances**

The Borough Clerk read into the record:

The following ordinance published herewith was first read by title only on May 10, 2011, and posted on the bulletin board of the lobby of the municipal center.

ORDINANCE NO. 11-06 - AN ORDINANCE AMENDING CHAPTER II, ARTICLE V OF THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF TENAFLY, CREATING A "FIRE COMMITTEE"

Mayor Rustin opened the floor for any public comments on Ordinances 11-06

There were no public comments.

Motion by C. Kerge, second by C. LaMastra that Ordinance 11-06 be passed on second and final reading and is hereby adopted and notice of same shall be published according to law.

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

C. Barzelatto:	absent	C. LaMastra:	aye
C. Honig:	aye	C. Lattif:	aye
C. Kerge:	aye	C. Warms:	aye

**COMMITTEE REPORTS:**

Councilman Honig

Mr. Honig advised that the Planning Board had met two weeks ago and had a continuation of the hearing of the Elkwood Terrace/Hedvat application. It will be heard again on June 8<sup>th</sup>.

Councilman Warms

Mr. Warms announced that the Environmental Commission had its Sustainable Tenafly meeting.

He remarked that there were nice exhibits and interesting presentations on the use of solar panels. He also encouraged people to visit Davis Johnson Park's rose garden.

Councilman Lattif

No report.

Councilwoman LaMastra

No report.

Councilman Kerge

Ms. Kerge advised that the reconstruction of the Huyler Park Bandstand would be completed in time for the Memorial Day festivities. Mayor Rustin added that the parade is scheduled to begin at 10 a.m. followed by the bandstand ceremony and festivities at the Elks Club.

#### OLD BUSINESS:

C. Honig questioned when the discussion on the procedure for the hiring of police officers would take place. Borough Clerk Aportela-Hernandez advised that the discussion will be listed on the June 14<sup>th</sup> Work Session agenda.

#### NEW BUSINESS:

##### A. Introduction of Ordinances

C. LaMastra moved to introduce and pass on first reading Ordinance 11-07 and set the hearing for June 21, 2011 at 8:00 p.m. or as soon thereafter as the matter can be heard as the date and time and the Council Chambers of the Tenafly Municipal Center as the place for a hearing on said ordinance. Seconded by C. Kerge:

The Borough Clerk read the ordinance into the record:

ORDINANCE NO. 11-07 - BOND ORDINANCE PROVIDING FOR VARIOUS CAPITAL IMPROVEMENTS BY THE BOROUGH OF TENAFLY, IN THE COUNTY OF BERGEN, NEW JERSEY, APPROPRIATING THE AGGREGATE AMOUNT OF \$794,500 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$754,500 BONDS OR NOTES OF THE BOROUGH TO FINANCE PART OF THE COST THEREOF.

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

C. Barzelatto:	absent	C. LaMastra:	aye
C. Honig:	aye	C. Lattif:	aye
C. Kerge:	aye	C. Warms:	aye

C. Kerge moved to introduce and pass on first reading Ordinance 11-08 and set the hearing for July 12, 2011 at 8:00 p.m. or as soon thereafter as the matter can be heard as the date and time and the Council Chambers of the Tenafly Municipal Center as the place for a hearing on said ordinance. Seconded by C. Lattif:

The Borough Clerk read the ordinance into the record:

ORDINANCE NO. 11-08 – AN ORDINANCE TO AMEND AND SUPPLEMENT CHAPTER 35 OF THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF TENAFLY, ENTITLED “LAND DEVELOPMENT REGULATIONS” AND, MORE PARTICULARLY: AMENDING CHAPTER 35-201, RELATING TO *FLOOR AREA RATIO*; AMENDING SCHEDULE B AND THE FOOTNOTES THERETO RELATING TO *MAXIMUM IMPERVIOUS COVERAGE*; AND AMENDING CHAPTER 35-804.4.a TO REGULATE THE CONSTRUCTION OF *BELOW GRADE GARAGES*.

C. Honig stated that he is glad that the Council was able to come to a compromise to quickly enact a portion of the original ordinance.

C. Warms expressed his hope that the governing body can review the remaining two items and adopt them.

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

C. Barzelatto:	absent	C. LaMastra:	aye
C. Honig:	aye	C. Lattif:	aye
C. Kerge:	aye	C. Warms:	aye

B. **#R11-190**/Introduce 2011 BID Budget

C. LaMastra moved to adopt **#R11-190**/Introduce 2011 BID Budget and set the hearing for the adoption of the 2011 BID Budget on June 21, 2011 at 8:00 p.m. or as soon thereafter as the matter can be heard as the date and time and the Council Chambers of the Tenafly Municipal Center. Seconded by C. Honig:

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

C. Barzelatto:	absent	C. LaMastra:	aye
C. Honig:	aye	C. Lattif:	aye
C. Kerge:	aye	C. Warms:	aye

#### MAYOR'S REMARKS:

Proclamation designating June as Aphasia Awareness Month – presented to Alder Aphasia Center representatives Bernie Koster and Norma Wellington (Board Member and spouse), Robin Straus (Advocacy Program Assistant), and Volunteer Chepell Chase.

Mayor Rustin presented the representatives from the Alder Aphasia Center with a proclamation in their honor. Bernie Koster, member of the Board of Trustees, thanked the Mayor and Council and stated that he is proud of the work of the center. Mayor Rustin remarked that the Alder Aphasia Center is a very important facility. He stated that Mike Alder, founder of the center and a person affected by Aphasia, is a man of action and is recognized throughout the world.

Due to time constraints, Council was unable to address Correspondence items from the Committee of the Whole. Council decided to resume the Committee of the Whole following the Closed Session. However, C. LaMastra suggested approving the block party and Woolstock events, items 4D and 4E on the Committee of the Whole agenda, and Council agreed.

4D. Denson/29 Buff Road

Re: Block Party Request (6/11/11)

Motion by C. LaMastra, second by C. Lattif, that the request to hold a block party on Buff Road between Knickerbocker Road and Cambridge Road, Saturday, July 11, 2011, with a rain date of Sunday, July 12, 2011, is hereby approved.

4E. Pet ResQ In.c

Re: Woofstock 2011

Motion by C. Lattif, second by C. Kerge, that the request to hold the 2<sup>nd</sup> Annual Woofstock in October 2011 is hereby approved.

CLOSED SESSION:

Mayor Rustin recognized Borough Attorney William McClure, who read into the record Resolution 11-191

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. Attorney-Client Privilege
  - 1. Auditor Subcommittee – Recommendation
  
- B. Personnel
  - 1. Municipal Judge Health Benefits.
  - 2. FMLA Update – Recreation.
  - 3. Employee Complaint – Recreation.
  - 4. Employee Disciplinary Matter – DPW.
  - 5. Evaluation of Borough Administrator.

Minutes will be taken of the meeting and release 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.

There being no further business to come before the Council, on a motion from C. Honig, seconded by C. LaMastra, and all present voting in favor, the meeting was adjourned to the Closed Session in the Committee Room at 9:46 p.m.

Lissette Aportela-Hernandez, MPA, RMC  
Borough Clerk