

# **Borough of Tenafly**

## **MAYOR AND COUNCIL**

### **MINUTES**

**TUESDAY, JUNE 28, 2011**

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

**ABSENT:** None

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

At 9:37 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 Record, Suburbanite, and 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 May 24, 2011 Public Meeting, June 14, 2011 Work Session, and June 21, 2011 Public Meeting are hereby approved (as amended).

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

Mr. McClure stated that Resolutions #11-222 through #11-228 are being removed from consideration, and Resolution 11-229 is being added under new business to amend Ordinance 11-08. The purpose of the amendment is to make corrections with regards to some typographical errors due to formatting issues and affected zones listed for impervious coverage.

#### **PRESENTATIONS:**

Proclamation/Peace Plaza Plaque to Volunteer Firefighters Edward Klapach and Max Werner.

Mayor Rustin presented read a proclamation and presented a Peace Plaza plaque to the family of Firefighter Edward Klapach and Firefighter Max Werner. He stated that there is nothing on paper or a plaque that can equate to the service both men have provided to the town and country. Their service and sacrifice are appreciated. He wished them a safe return to their families and expressed that both men are two examples of the quality of the Tenafly Fire Department.

#### **PUBLIC COMMENTS:**

Kyle Kavanagh – 10 Coleman Terrace – stated that on September 28, 2010, the Mayor and Council ordered his neighbor to move his mailbox and at this time, the neighbor has put the mailbox at the property line and has placed a sign about a month ago that reads "stop

teaching children hate". Mr. Kavanagh claimed that the sign is directed to him and the neighbor is verbally abusive.

Mayor Rustin explained that the decision was based on the fact that the neighbor had a Tenafly Road address at the time, but he has since changed his address to reflect a Coleman Terrace designation.

Mr. McClure responded that based on the pictures Mr. Kavanagh provided, the mailbox appears to not be in the right-of-way and the sign is a free expression sign in compliance with the Borough's sign regulations and is protected as free speech. A free speech sign cannot be regulated if it's on private property.

Mrs. Thompson-Chin advised that she has spoken to Mr. Kavanagh and the Construction Official and that there is nothing the Borough can do in this matter.

Mr. Kavanagh reported that he has filed a harassment complaint that was remanded to mediation, which is scheduled to occur sometime in August.

**CONSENT AGENDA:**

- #R11-215/**Authorize Refund/Soil Moving and Construction of Addition/7 Birchwood Road/\$6,500.00 plus interest owed to date.
- #R11-216/**Authorize Refund/Tree Mitigation Escrow/7 Birchwood Road/\$1,200.00.
- #R11-217/** Authorize Inclusion in the Bergen County Community Development Program.
- #R11-218/**Endorse Fair Distribution of State Aid for Education
- #R11-219/**Oppose A-3285 – Cost Estimates on Bid Advertisements
- #R11-220/**Support S-2762/A-4084 – Commercial and Industrial Property Tax Refunds.
- #R11-221/**Approve Outdoor Seating Permits/Cactus Sushi, Foova Inc, TPR Restaurant Pizzeria Inc, Clinton Inn Hotel Inc.
- ~~**#R11-222/**Award Contract/Municipal Concession Stand – Excavation & Backfill – Jim Moscone Plumbing & Heating, Inc. *Removed from Consent Agenda*~~
- ~~**#R11-223/**Award Contract/Municipal Concession Stand – Masonry Work – Barry Beyda, Mason Contractor. *Removed from Consent Agenda*~~
- ~~**#R11-224/**Award Contract/Municipal Concession Stand – Framing and Roofing & Siding Labor – Kershaw Construction, LLC. *Removed from Consent Agenda*~~
- ~~**#R11-225/**Award Contract/Municipal Concession Stand – Framing Materials – Kuiken Brothers Company. *Removed from Consent Agenda*~~
- ~~**#R11-226/**Award Contract/Municipal Concession Stand – Roofing & Siding Materials – Allied Building Products. *Removed from Consent Agenda*~~
- ~~**#R11-227/**Award Contract/Municipal Concession Stand – Plumbing – Jim Moscone Plumbing & Heating, Inc. *Removed from Consent Agenda*~~
- ~~**#R11-228/**Award Contract/Municipal Concession Stand – Electrical Work – Chestnut Ridge Electric, Inc. *Removed from Consent Agenda*~~

Motion by C. LaMastra, second by C. Lattif that the Consent Agenda be approved as amended.

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 as amended.

PUBLIC HEARINGS:  
None.

COMMITTEE REPORTS:  
Councilwoman LaMastra

Ms. LaMastra announced TVAC is preparing and staging for the July 2<sup>nd</sup> fireworks. TVAC is also providing mutual aid to Englewood for their fireworks on Thursday, June 30<sup>th</sup>, between 6pm and 10pm. Additionally, TVAC personnel are now required to wear reflective vests on more heavily travelled roads, such as 9W and Knickerbocker Road. She expressed that she would like Council to recognize the members that received awards at their Recognition Dinner for the August public meeting. Council concurred.

Councilwoman Kerge

Ms. Kerge announced that the ad-hoc zoning committee comprised of herself, C. Honig, and C. Warms, met with the Construction Official to review the zoning in the Borough, especially in the downtown area.

OLD BUSINESS:

C. Barzelatto requested that the discussion on the hiring of police officers be listed on the July 5<sup>th</sup> work session. The Borough Clerk confirmed that it is scheduled to be listed on that agenda.

NEW BUSINESS:

A. Introduction of Ordinance

C. Warms moved to introduce and pass on first reading Ordinance 11-10 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 Tenaflly Municipal Center as the place for a hearing on said ordinance. Seconded by C. LaMastra:

The Borough Clerk read the ordinance into the record:

ORDINANCE NO. 11-10 – AN ORDINANCE RESCINDING ORDINANCE 09-05  
ESTABLISHING THE WAIVER OF HEALTH BENEFITS PROGRAM FOR  
ELIGIBLE BOROUGH OF TENAFLY EMPLOYEES.

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

C. Barzelatto: aye  
C. Honig: aye  
C. Kerge: aye

C. LaMastra: aye  
C. Lattif: aye  
C. Warms: aye

B. Amendment of Ordinance

C. LaMastra moved to adopt #**R11-229**/Amend 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 *BUILDING HEIGHT, AVERAGE GRADE, STORY, AND FLOOR AREA RATIO*; AMENDING SCHEDULE B AND THE FOOTNOTES THERETO RELATING TO *COMBINED SIDE YARD AND MAXIMUM IMPERVIOUS COVERAGE*; AND AMENDING CHAPTER 35-804.4.a TO REGULATE THE CONSTRUCTION OF *BELOW GRADE GARAGES*. Seconded by C. Lattif :

WHEREAS, 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*, was introduced at a regular meeting of the Mayor and Council on Tuesday, May 24, 2011, at which time the public hearing for further consideration of this ordinance was scheduled for 8:00 p.m. on Tuesday, July 12, 2011 in the Council Chambers located in Borough Hall in the Municipal Center, 100 Riveredge Road, Tenafly, NJ; and

WHEREAS, following review of the introduced ordinance by the Tenafly Department of Code Enforcement, the following amendments are offered to Section 2:

1. Chapter 35-802.9.g, shall be amended by deleting the portion “swimming pools including sidewalk area and the surface of tennis courts including side and back courts, located in a rear yard”; and
2. Chapter 35-802.9.g, shall be amended by deleting the zones listed in the schedule and replaced with the following schedule:

<b>Zone</b>	<b>Rear Yard Coverage</b>
R-RMF	50%
B-1	75%
B-2	75%
C	65%
M-1	65%
O	25%

; and

WHEREAS, the Borough Attorney has deemed the proposed amendments to be substantial in nature thereby requiring advertisement of these proposed amendments prior to further consideration of adoption of Ordinance No. 11-08.

NOW THEREFORE BE IT RESOLVED, by the Mayor and Council of the Borough of Tenafly, that the proposed amendments as enumerated herein are hereby accepted; and

BE IT FURTHER RESOLVED that the Borough Clerk is hereby directed to advertise a Public Hearing on these proposed amendments accordingly.

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

C. Barzelatto: aye  
C. Honig: abstain  
C. Kerge: aye

C. LaMastra: aye  
C. Lattif: aye  
C. Warms: aye

**MAYOR'S REMARKS:**

Historic Preservation Commission Appointment

Mayor Rustin appointed Sereno Danese as the second alternate to the Historic Preservation Commission.

**CLOSED SESSION:**

Mayor Rustin recognized Borough Attorney William McClure, who read into the record Resolution #11-230

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. Borough Administrator Evaluation.

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 adjourn this public meeting.

There being no further business to come before the Council, on a motion from C. Kerge, seconded by C. Honig, and all present voting in favor, the meeting was adjourned to the Closed Session in the Committee Room at 10:08 p.m.

**ADJOURNMENT:**

As there was no further business to come before the Council, on a motion by C. Honig, second by C. LaMastra, and unanimously carried, to adjourn this meeting. The meeting was adjourned at 11:25 p.m.

Lissette Aportela-Hernandez, MPA, RMC  
Borough Clerk