

Borough of Tenafly

MAYOR AND COUNCIL

MINUTES

TUESDAY, October 26, 2010

PRESENT: Mayor Peter Rustin and Council members Anthony Barzelatto, Nadia LaMastra, Michael Lattif, Joseph McDermott, Patrick J. Rouse, and Jon Warms

ABSENT: None

ALSO

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

At 8:44 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. Lattif, second by C. LaMastra and unanimously carried,

RESOLVED that the Minutes of the Work Session of September 28, 2010, Regular Meeting of September 28, 2010, Work Session of October 5, 2010, Closed Session of October 5, 2010 (not for release), Regular Meeting of October 12, 2010, Special Work Session of October 19, 2010, and Closed Session of October 19, 2010 (not for release), are hereby approved.

REVISIONS TO THE AGENDA – Borough Attorney McClure advised that Kurtz vs. Borough of Tenafly et al litigation would be added under the Closed Session.

PUBLIC COMMENTS:

Barry Honig, 151 Deerfield Drive, commended C. Barzelatto's comments during the work session regarding performance evaluations. He expressed his opinion that performance evaluations should not be linked to compensation as it inhibits flexibility in compensation. He suggested that the governing body look into non-monetary ways to recognize an employee's performance. He also encouraged Council to look at State A-780 which limits accumulation of sick and vacation time for State employees. C. Rouse responded that Tenafly does not provide for accumulation of sick and vacation time.

Martha Kerge, 40 Hillside Avenue, urged the Council to accept the donation of the Cotswald fountain as it would stop the discussion as to where it should go and deter any litigation. She also addressed the issue of audience remarks and suggested that they should first be directed to the Mayor with majority and minority positions to provide answers as well. With regard to the South Summit street property, she recommended hiring an appraiser determine market value in order to avoid litigation. She questioned the sale of the backhoe to the Board of Education and the reason for the windows being replaced. Mayor Rustin responded that the backhoe is old and can no longer meet the Borough's needs, but can meet those of the Board of Education. As far as the windows, he responded that they are rotted and no longer efficient.

Jeff Thompson, 41 Lawrence Parkway, explained that the Tenafly Republican Club purchased 200 signs for the political campaign, one of which was placed on a commercial property on Grove Street. This property owner was threatened with a summons if they did not remove the sign from their property. The property owner was told either to take the sign down or to place the opponent's sign next to it. Mr. Thompson reported that he had sent an email to all members of the Council on October 15th asking for an explanation for the objection to the sign and had received no response. He also explained that although it was not required, he applied for a sign permit and had received a denial due to the size of the lawn sign exceeding maximum limits. He

questioned why he would have to provide the content of the sign if he were to appeal this decision. He further questioned why Woofstock signs were permitted in the same location and claimed that the Borough is practicing selective enforcement.

Borough Attorney advised that any sign exceeding the size limitations must obtain a special sign permit. He explained that Woofstock also had to file a special application. He further explained that the content of the sign does play a part in the decision and is used to determine whether it is commercial speech and requires a permit.

Mayor Rustin commended Mr. Thompson on his consistency in objecting to how the Borough enforces the sign ordinance. He stated that the sign was removed because it was in violation of the sign ordinance.

Mark Feldman, 133 Lylewood Drive, remarked that during the candidate's night, the Mayor made a comment that he was not in favor of having a financial advisory committee because it may cause the Chief Financial Officer to resign. Mr. Feldman explained that the Mayor made this remark in response to a letter from a citizen urging the Council to have one. Mr. Feldman asked the full governing body to consider the pros and cons of having a financial advisory committee as well as having other advisory committees that can help improve the way that the town is run. He also remarked that there are many issues that are informally dealt with by the Mayor.

Mayor Rustin responded that Mr. Feldman had misquoted him. He explained that he was responding to a resident's letter asking for his personal opinion and never claimed that it was the opinion of the Council. He said that he will call the question of whether the Council would like to discuss advisory committees.

CONSENT AGENDA

- A. **#R10-346**/Approve October Expenditures as of October 20, 2010
- B. **#R10-347**/Authorize Refund/Planning Board Trust Account/Sushi Ten Corporation
- C. **#R10-348**/Authorize Refund/Planning Board Trust Account/Tenafly Montessori Academy
- D. **#R10-349**/Approve Refund/Tree Mitigation Escrow/47 Sunset Lane/\$9,000.00
- E. **#R10-350**/Approve Refund/Tree Mitigation Escrow/18 Thatcher Road/\$4,600.00
- F. **#R10-351**/Approve Refund/Tree Mitigation Escrow/55 Engle Street/\$750.00
- G. **#R10-352**/Approve Refund/Tree Mitigation Escrow/150 Magnolia Avenue/\$250.00
- H. **#R10-353**/Approve Refund/Tree Mitigation Escrow/150 Oxford Drive/\$200.00
- I. **#R10-354**/Approve Refund/Tree Mitigation Escrow/187 Oxford Drive/\$1,200.00
- J. **#R10-355**/Approve Refund/Tree Mitigation Escrow/259 Engle Street/\$150.00
- K. **#R10-356**/Approve Refund/Tree Mitigation Escrow/301 Hudson Avenue/\$250.00
- L. **#R10-357**/Approve Refund/Tree Mitigation Escrow/67 Woodland Park Drive /\$600.00
- M. **#R10-358**/Approve Raffle Applications #RA979/Tenafly Elks Lodge/07-08-10 through 07-08-11 & #RA980/The Presbyterian Church at Tenafly/11-21-10
- N. **#R10-359**/Authorize Receipt of Bids for Backhoe for the Department of Public Works
- O. **#R10-360**/Authorize Receipt of Bids for Removal and Replacement of Twenty-One (21) Windows at the Municipal Center
- P. **#R10-361**/Authorize Service Agreement/Deferred Compensation Plan/AXA Equitable
- Q. **#R10-362**/Award Bid for West Clinton Avenue, Section 3, Resurfacing Project
- R. **#R10-363**/Authorize Receipt of Bids/Leasing Temporary Trailers
- S. **#R10-364**/Approve Developer's Agreement/Huyler Sky, LLC/19 Huyler Avenue
- T. **#R10-365**/Approve Refund/Tree Mitigation Escrow/66 Essex Drive/\$100.00

Motion by C. McDermott, 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. McDermott:	aye
C. LaMastra:	aye	C. Rouse:	aye
C. Lattif:	aye	C. Warms:	aye

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

COMMITTEE REPORTS

Councilwoman LaMastra

The BID has prepared a letter to be sent to all the BID properties along with the bills. This letter describes the goals of the BID and requests contact information in order to create a database.

Councilman Lattif

Senior Center: Walter Kosmin has stepped down as Chair of the Board of Trustees and Arthur Bower has taken over. There has been a delay in the installation of roof-lined windows and motorized shades at the Senior Center. \$400 was collected to put up an awning in memory of Nancy Brick. There was also discussion about future programs, one of which is a Broadway shows and writers programs. The fee would be \$15 for a 5-week program. The Senior Center Director reported that during a luncheon, a freeholder walked in, unannounced, with political information. She did not know how to handle the situation and she was told to reach out to the Mayor or Borough Clerk for guidance should a similar situation occur in the future.

Councilman Rouse

Library: Mr. Rouse reported that there will be a second meeting for union negotiations next Wednesday. The new director has made changes in the structure and there is now a much better chain of command.

ADA Committee: The committee is considering adding a student member. This addition would require a change in the ordinance and should be placed on the November 4th Work Session for discussion.

Health: The Flu Vaccine Clinic was very well-attended and two additional dates of November 5th and November 19th have been added.

Councilman McDermott

Environmental Commission is using funds to grow the scope of the consultant. Mr. McDermott commended Bob Beutel's outstanding performance as chair of the Green Team and would like to find the proper way to recognize him. Mayor Rustin suggested passing a resolution or creating a Certificate of Appreciation.

Councilman Warms

Mr. Warms reported that Woofstock was well-attended and the cleanup was handled nicely. Mayor Rustin added that it was a spectacular event, but it was never made clear the relationship between Pet ResQ and the Chamber of Commerce. He feels that if there is a similar event in the future, there should be a point person designated. With regard to the signage for this event, Mayor agreed with Mr. Thompson that it needs to be made clear that there are to be no signs on public property.

Planning Board: A sub-committee has been formed and is reaching out to people to discuss issues that should be included in the Master Plan revision.

OLD BUSINESS

A. Engineering Review Fee Ordinance

Council agreed to have this item placed on the 11/4 Work Session agenda under Old Business.

B. Business Owner Complaint

C. Barzelatto questioned the status of the complaint made by Robert Obernauer, owner of Clinton Auto Body, against the Building Department. Borough Administrator responded that she had received a response from the Building Department and is in the process of reviewing it.

C. Thompson Email

C. LaMastra asked that when a resident emails the Council that the Council forward the email to the Borough Clerk to be added under correspondence as a matter of customer service.

NEW BUSINESS

Mayor Rustin recognized C. Rouse:

A. **#R10-366/** Authorize Requests for Proposals for Construction Management/Addition and Renovation of Police Headquarters

Motion by C. Rouse, second by C. McDermott:

WHEREAS, the Borough of Tenafly is seeking construction management services to oversee the Addition and Renovation of Tenafly Police Headquarters project; and

WHEREAS, the Chief Financial Officer has certified that funds are available for this project.

NOW THEREFORE BE IT RESOLVED that the Mayor and Council hereby authorize the receipt of Requests for Proposals for the “CONSTRUCTION MANAGEMENT SERVICES FOR THE ADDITION AND RENOVATION OF TENAFLY POLICE HEADQUARTERS” to the Borough Administrator by **3 p.m. on Monday, November 22, 2010**; and

BE IT FURTHER RESOLVED that the Borough Clerk is hereby authorized to advertise for receipt of Requests for Proposals in the Friday, October 29, 2010 issue of the Record, in accordance with the Local Public Contracts Law.

C. Lattif questioned why the anticipated cost was listed as \$4,000,000. Borough Administrator responded that this amount reflects the cost of construction and is a necessary piece of information to provide to the respondent. C. Lattif then asked if the construction manager would price based on a percentage of the construction cost. Borough Administrator explained that the Clerk of the Works is responsible for the entire project and there are other costs involved. She further explained that Borough does not dictate the pricing method, but the respondent would have to provide information to justify cost. C. Lattif also questioned whether any portion of the \$4,000,000 would be spent prior to the selection of Clerk of the Works and he was told that funds would be used for the leasing of the trailers.

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

C. Barzelatto:	aye	C. McDermott:	nay
C. LaMastra:	aye	C. Rouse	aye
C. Lattif:	aye	C. Warms:	aye

B. BID Assessment Bills

Borough Administrator explained that in preparing to send out the bills for the BID assessment, it was discovered that there is a related requirement in Ordinance 08-25 to which the Borough needs to adhere. There are five steps to this requirement:

1. Publish Notice of a Public Hearing on October 29, 2010
2. Mail assessment hearing notice with a list of the assessments
3. Hold Public Hearing on November 9, 2010
4. Mail Bills November 12, 2010
5. Bill due date December 15, 2010

There was some discussion as to how this hearing would affect the BID. Borough Attorney explained that this hearing would simply be an opportunity for the public to voice their objections or concerns, but not the time to file an appeal. The Mayor requested that a sentence be included in the letter stating that this area is the same as the BID.

C. Advisory Committees

The Council agreed to discuss having a Citizen Advisory Committee at the November 4th Work Session.

MAYOR'S REMARKS

None

CLOSED SESSION

Mayor Rustin recognized Borough Attorney William McClure.

BE IT RESOLVED in compliance with N.J.S.A. 10:4-12, the Mayor and Council of the Borough of Tenafly are going into Closed Executive Session to discuss the following matter:

- A. Legal
 1. Kurtz vs. Borough of Tenafly et al
- B. Personnel
 1. Performance Evaluation Process for the Borough Administrator
- C. Contract Negotiations
 1. Upcoming Bargaining Agreements

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 adjourn this public meeting.

There being no further business to come before the Council, on a motion from C. LaMastra, second by C. McDermott, and all present voting in favor, the meeting was adjourned to the Closed Session in the Committee Room at 9:52 p.m.

Respectfully submitted,

Lissette Aportela-Hernandez
Borough Clerk