

Borough of Tenafly

MAYOR AND COUNCIL

MINUTES

TUESDAY, MAY 15, 2012

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

ABSENT: None

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

At 7:51 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.

There was a Moment of Silence observed in memory of Allen Layne, former Chief of Police, who passed away over the weekend.

Motion by C. Kerge, second by C. LaMastra, and all other members voting in favor,

BE IT RESOLVED that the Minutes of the April 3, 2012 Work Session, April 10, 2012 Public Meeting, April 24, 2012 Closed Session (not to be released), April 24, 2012 Closed Session (not to be released), April 24, 2012 Work Session, April 24, 2012 Public Meeting, May 8, 2012 Closed Session (not to be released), May 8, 2012 Public Meeting, and May 8, 2012 Closed Session (not to be released) are approved.

REVISIONS TO AGENDA:

Borough Attorney McClure advised that item QQ on the Consent Agenda, Resolution #R12-221/Oppose S-1914 which Requires User Fees be included in 2% Cap, is being removed from the Consent Agenda and placed under New Business.

AUDIENCE REMARKS FOR AGENDA ITEMS:

Mayor Rustin announced that that although they will have the hearing on the BID budget tonight, it was the consensus at the May 8th Work Session that it will be tabled and there will be a special meeting at 7:30 p.m. on May 22nd to discuss the BID budget. He advised that the Council will receive public input at that time as well.

No one came forward.

CONSENT AGENDA:

#R12-179/Approve Expenditures as of May 9, 2012.

#R12-180/Approve Transfer of Plenary Retail Consumption License Number #0261-33-016-004 to ARTA D, Inc.

#R12-181/Authorize Refund/Construction and Variance Escrow/195 County Road

#R12-182/Authorize Refund/Site Work Escrow/63 Suffolk Road

#R12-183/Authorize Refund/Engineering Escrow/172 Tenafly Road

#R12-184/Authorize Refund/Construction Escrow/150 County Road

#R12-185/Authorize Refund/ Variance Escrow/42 West Clinton Avenue

#R12-186/Authorize Refund/Variance Escrow/Tomkin Dom, LLC

#R12-187/Authorize Refund/Tree Mitigation Escrow/48 Depeyster Avenue

#R12-188/Authorize Refund/ Variance Escrow/100 Grove Street

#R12-189/Authorize Refund/Construction Escrow/48 West Railroad Avenue

#R12-190/Authorize Refund/Site Work Escrow/79 Berkeley Drive

#R12-191/Authorize Refund/Site Work Escrow/20 Stanton Road

#R12-192/Authorize Refund/Construction Escrow/ Moses Realty and Builders/
32 Washington Street

#R12-193/Authorize Refund/Construction Escrow/Doyle/32 Washington Street

- #R12-194/Authorize Cancellation of the Planning Board Trust Account Balance to Current Surplus
- #R12-195/Authorize Refund/PB#1-07-08 Trust Account/Metro Golf & Fitness Piermont Golf Associates
- #R12-196/Authorize Refund/Construction Escrow/7 Stonybrook Road
- #R12-197/Authorize Refund/ Variance Escrow/36 Illingworth Ave
- #R12-198/Authorize Refund/PB# PB#1-06-07 Trust Account/DiFeo BMW
- #R12-199/Oppose Senate Bills 1451 and 1452
- #R12-200/Amend 2012 Meeting Schedule/Add Special Work Session on June 7, 2012
- #R12-201/Authorize Application Submission to Natural Historic Resources and Historic Preservation Office/ Tenaflly Railroad Station Lighting Replacement Project
- #R12-202/Authorize Refund/Various Recreation Programs
- #R12-203/Authorize Refund/Variance Escrow/268 County Road
- #R12-204/Authorize Refund/Various Bonds and Escrows/North American Eagle, LLC
- #R12-205/Authorize Refund/Various Bonds and Escrows/ Eagle Land Construction, LLC
- #R12-206/Authorize Redemption of Tax Title Lien/ Tax Title TTL11-3
- #R12-207/Authorize Refund/Tree Mitigation Escrow/ 14 Mountain Road
- #R12-208/ Authorize Refund/PB#1-12-02 Trust Account/Huyler Sky, LLC
- #R12-209/Authorize Refund/Tree Mitigation Escrow/280 Tenaflly Road
- #R12-210/Authorize Refund/Legalized Games of Chance/RA1013
- #R12-211/Authorize Refund/Various Bonds and Escrows/ 144 Oxford Drive
- #R12-212/Oppose Bergen County Freeholder Resolution 27-2012
- #R12-213/ Authorize Refund/Construction Escrow/ 121 Kent Road
- #R12-214/ Authorize Cancelation of General Capital Fund Grant Receivable Balances
- #R12-215/ Authorize Cancelation of General Capital Improvement Authorization Balances
- #R12-216/Support the *Click It or Ticket* Mobilization of May 21 – June 3, 2012
- #R12-217/Confirm Appointment of Elevator Sub-Code Official
- #R12-218/Support the Mayors Wellness Campaign
- #R12-219/Authorize Execution of Developers Agreement/100 Deerfield Drive
- #R12-220/Approve Raffle Application RA1021
- #R12-221/Oppose S-1914 which Requires User Fees be included in 2% Cap Moved to New Business
- #R12-222/Support S-1900 of Phased-In Funding Restoration
- #R12-223/Authorizing Exercise of 2-Year Option on Wachovia Parking Lot Lease

Motion by C. LaMastra, second by C. Barzelatto 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. Warms:	aye
C. Kerge:	aye	C. Zinna:	aye

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

COMMITTEE REPORTS:

Councilwoman Kerge

Ms. Kerge advised that the Library Board met last evening and is concerned with administrative items. As the budget continues to shrink every year and donations become smaller, the distribution of funds in the budget is especially important.

Councilwoman LaMastra

Ms. LaMastra reported that Recreation met last night and discussed a proposal to turn the parking lot on the corner of Tenaflly Road and Riveredge Road into a soccer turf field. She advised that they would like to have plans drawn up to bring to the Mayor and Council for approval. The cost will be \$60,000 and it will be covered by donations through the Tenaflly United Soccer League. She advised that all coaches will receive concussion training. There are 230 children signed up for the K-6 Summer Camp and 20 children in the Preschool Summer Camp. There will be additional activities offered at the camp including hobby quest, yoga, zumba, and fashionably chic. Matthew Mercurio, Recreation Director, has ordered walkie-

talkies for the counselors and the cost will be covered by camp fees. There will be another bike rodeo in the fall.

As the time for Public Hearings approached, the Committee Reports will continue at the conclusion of the hearings.

PUBLIC HEARINGS

ORDINANCE NO. 12-07:

The Borough Clerk read into the record:

The following ordinance published herewith was first read by title only on April 24, 2012, and posted on the bulletin board of the lobby of the municipal center.

ORDINANCE NO. 12-07 – AN ORDINANCE TO ADOPT THE 2012 INTERNATIONAL PROPERTY MAINTENANCE CODE IN THE BOROUGH OF TENAFLY, AND PRESCRIBING PENALTIES FOR VIOLATIONS THEREOF.

Public Comments on Ordinance 12-07.

None.

Motion by C. LaMastra, second by C. Zinna that Ordinance 12-07 be passed on second and final reading and is hereby adopted and notice of same shall be published according to law.

C. LaMastra noted that the purpose of this ordinance is to come into compliance with the code.

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

C. Barzelatto:	aye	C. LaMastra:	aye
C. Honig:	aye	C. Warms:	aye
C. Kerge:	aye	C. Zinna:	aye

2012 BID Budget –

Public Comments on 2012 BID Budget

Carol Geisenheimer, 2 Park Street, expressed her concern that there is too much money being spent without due diligence as contracts are being awarded without obtaining additional quotes. She commented that although the intent of the BID is to improve the downtown, the proposed budget expenses create a financial burden on property owners and most of these expenses, in her opinion, should not be the responsibility of the BID. She believes that the BID Board needs to be more transparent with more oversight by governing body. She finished by criticizing the proposal to turn the parking lot into a soccer field as it will be taking away valuable parking.

James Elias, 36 Prospect Terrace, owner of a business located at 25 Central Avenue, expressed his opposition to the BID. He criticized the fact that the BID employs businesses not located in Tenafly. He noted that the establishment of a BID is usually voted on by its stakeholders. He expressed his opinion that there is not a real plan and asked that the BID be dissolved. He did commend the BID for the change implemented in the downtown parking. He finished by expressing his opinion that the parking lot should not be turned into a soccer field.

Sandra Diasparra, 5 Atwood Avenue, owner of Tenafly Arts, advised that she grew up in Tenafly and is heavily invested in the Borough both personally and financially. She expressed her opinion that there is not a need for a BID as the character of Tenafly is something very unique and is what makes people purchase property here. She pointed out that Bergenfield established a BID and now half of the stores are empty. She stated that she does not want anything offered by BID nor does she want to pay for it.

Sally Tether, 121 N. Summit, stated that she is representing Benjamin Brothers and Metro Golf. As these businesses are not located in the downtown, she does not believe that they will benefit from signs. She advised that they have been double hit in terms of taxes with the recent reassessment. She commented that her position is to repeal the BID.

Richard Baum, 56 N. Summit and 29 Atwood, advised that he has been in town 25 years. He stated that he cannot understand the purpose of the BID as he believes it is a waste of money and will not help the businesses. He questioned why he should pay this tax when his business is not located in the downtown.

Madeline Moscone, 50 W. Railroad Avenue, stated that she does not agree with the establishment of the BID. She does not believe that the goal of BID has been clarified and feels that the business owners are being taxed without decisive plans. She criticized the fact that the salary and payroll are half of the budgeted amount. She expressed her opinion that the BID should be under jurisdiction of the Chamber of Commerce.

Robin Odabash Brown, expressed her opinion that the budget and composition of the BID Board fail to meet the requirements of the ordinance. She stated that she has asked for transparency, but there are still no minutes posted. She criticized the director's salary when she is only in Tenafly once a week and everything is being outsourced. She advised that Beth Lippman is the BID Director in both Livingston and Springfield and both areas have entered into debt. She pointed out that with the proposed changes to bylaws, the BID Board can be eleven, nonpaying residents and no business owners. She stated that she is opposed to the BID tax dollars benefiting private businesses. She expressed her belief that the governing body should be responsible for overseeing the BID and the cost of the revitalization of the downtown should be spread over every taxpayer.

Lori Starer, 21 Stanton Road, stated that she has much more faith in the governing body and Borough employees to do right by the businesses than in the BID Director and BID Board. She advised that she attended the forum at the Clinton Inn hoping to see measurable successes, but left feeling more dissatisfied. She expressed her opinion that the BID is not working and asked that the Council look at it again very closely.

Mark Feldman, 133 Lylewood Drive, commented that it may be too early to discard the BID, but believes that the businesses are suffering. He suggested suspending taxation for the year by using the surplus that exists and asked that Council reevaluate at the end of the year whether the BID should continue to exist.

#R12-224/Adoption of 2012 BID Budget and Confirmation of Assessment

Motion by C. Honig, second by C. Zinna that #R12-224 be tabled.

On a roll call, the vote on #R12-224 was recorded as follows:

C. Barzelatto:	aye	C. LaMastra:	aye
C. Honig:	aye	C. Warms:	aye
C. Kerge:	aye	C. Zinna:	aye

All members present voting in favor, #R12-224 was tabled.

COMMITTEE REPORTS:

Councilwoman LaMastra

Ms. LaMastra reported that there was a Police Commission meeting on May 1st. Chief Bruno reported that the move into the new headquarters was not easy. He would like to have an open house for public once they are fully settled. Chief Bruno is investigating the installation of a sidewalk on Central Avenue and will come back with a proposal. He is also researching the benefits of the accreditation of the Police Department and will be providing a thorough report. Capt. Chamberlain, Sgt. Kopesky, P.O. Giordano, and P.O. Monte competed in the Law Enforcement Challenge and took second place.

The Senior Center met. As they were funded through HUD, they are still trying to ascertain whether they have the ability to charge for courses and if they can charge a slightly higher rate for non-residents. They are looking to collect these small, nominal fees to help defray the costs for necessary maintenance and repair of the facility. They are still reaching out to other communities as well to see if they can share some programs. Mayor Rustin advised that the Korean Parents Association had their luncheon at the Senior Center and there was not an empty seat in the house. C. LaMastra commented that the governing body should be very proud of the facility and the way that it is run.

The BID held its business owners meeting. Ms. LaMastra noted that Beth Lippman, BID Director, will provide a detailed report at Tuesday's meeting, but commented that she took away a sentiment of anger towards governing body for not helping the businesses or seeking their input. There were complaints about parking and the Planning Board, Board of Adjustment, and Building Department not being business friendly.

Councilman Barzelatto

Mr. Barzelatto reported that the Fire Department held its awards ceremony several weeks ago. He advised that there were several 25-year pins awarded, William Connolly received his 50-year pin, and Bob Fuller, who is still active in the department, was honored for his 65 years of service.

Councilman Warms

Mr. Warms advised that the first of the Chamber of Commerce's monthly sidewalk sales will start a week from this Saturday. The sale will be called "Street Deals" and there will be entertainment hired.

Mr. Warms along with Joe Lavin, Chair of the Environmental Commission, attended the annual Bergen County Environmental Commission meeting which featured a series of speakers. There was information about insects and diseases that can fall upon trees this year, the need for separate storm and sanitary sewers, and water conservation.

The Nature Center will be having its Spring Bird Walk this Saturday from 9 a.m.-11 a.m. There will be a natural henna workshop the following week. On June 9th and 10th, there will be Nature Day activities, including canoeing on Pfister's Pond. Mr. Warms advised that this event coincides with the Chamber of Commerce Street Fair and each organization will promote each other's events.

Councilman Honig

No report.

OLD BUSINESS:

None

NEW BUSINESS:

#R12-221/Oppose S-1914 which Requires User Fees be included in 2% Cap

C. Honig expressed his concern that many towns may not be as responsible as Tenafly, creating the need to look at this issue with a broader prospective. He stated that he does not want the 2% cap violated by excessive user fees.

Mayor Rustin noted that there is no definitive description of what is meant by user fees. If they were to include all fees in such as those charged by Recreation or Building Department, he believes that it would create a burden on the ability to get under cap.

C. LaMastra expressed her support for opposing S-1914 as the user fees are not defined. She does not believe that a municipality should be told what to include in its tax base.

C. Kerge commented that the 2% cap applies to the State, but the governing body needs to be concerned specifically with the effect on Tenafly. She expressed her concern that this bill may affect the ability to provide certain services. She advised that she will be voting for this resolution to oppose the inclusion of user fees in the 2% cap.

C. Warms expressed his concern that if the cost for a service increases by more than 2%, they would not be allowed to increase fees to match the cost and the service would no longer be self-supporting.

C. Zinna stated that he does not want to remove any flexibility and believes that the governing body exercises care when increasing fees.

C. Honig suggested passing a resolution requesting clarification on the user fees to which they are referring.

Motion by C. Kerge, second by C. Zinna that #R12-221 be approved.

On a roll call, the vote on #R12-221 was recorded as follows:

C. Barzelatto:	aye	C. LaMastra:	aye
C. Honig:	nay	C. Warms:	aye
C. Kerge:	aye	C. Zinna:	aye

The majority of members present voting in favor, #R12-221 was approved.

AUDIENCE REMARKS FOR NON-AGENDA ITEMS:

Mark Feldman- 133 Lylewood Drive, requested that in a future work session an update be provided on the finances of the Police project as well as an accounting and finalization report on the Concession Stand project. He questioned whether there is any indication if projects in the Capital budget will be completed. He also asked that a plan be presented for the use of the new non-police space.

Madeline Moscone, 50 W. Railroad Avenue, asked whether there is a schedule for music in Huyler Park.

Mayor Rustin advised that the governing body's first responsibility is to cover the costs of the fireworks and if there are any funds remaining, concerts will be scheduled. He encouraged anyone who would like to sponsor a concert to do so. In response to Mr. Feldman's comments, he remarked that the budget for the Snack Shack was passed two years ago in the amount of \$120,000. He explained that this cost is covered by the Recreation trust and the goal is to come in below this amount as the project is being completed mostly by volunteers and through donations. He expressed his hope that the project will be completed by the fall.

C. LaMastra noted that Lori Starer has asked that a member of the governing body man a table for the TEF 5K and advised that C. Zinna has agreed to do so. Lori Starer suggested having a Mayor and Council table at the finish line and C. LaMastra responded that they would get back to her with a decision.

C. Barzelatto responded to Mr. Feldman's comments and advised that there have been no cost overruns nor overspending to complete the project and the excess space will be utilized. He commented that the Snack Shack is an amazing structure and praised Tom Swift for his work.

MAYOR'S REMARKS:

Mayor Rustin expressed his concern over the comments made in reference to the BID. He advised that none of the money collected by the BID will be used by governing body. He noted that the governing body did not choose to do something in opposition to the business community as the businesses had initially been unanimously in support of the BID. He expressed his opinion that the governing body is trying to make a better business climate. He advised that the intent of next week's meeting is to make the budget more transparent and complete. He remarked that he is looking forward to a productive meeting.

Mayor Rustin announced that the service for Allen Layne, former Police Chief, will be at 11 a.m. on Saturday at the Church of the Atonement.

ADJOURNMENT:

As there was no further business to come before the Council, on a motion by C. Honig, second by C. Barzelatto, and unanimously carried, to adjourn this meeting. The meeting was adjourned at 9:05 p.m.

Respectfully submitted,

Lissette Aportela-Hernandez, MPA, RMC
Borough Clerk