

Borough of Tenafly

MAYOR AND COUNCIL

MINUTES

TUESDAY, SEPTEMBER 11, 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 8:01 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 Press and posted on the bulletin board in the lobby of the Municipal Center."

Council observed a moment of silence in honor of September 11th and those who gave their lives either while serving the public or by being in the wrong place at the wrong time. Mayor Rustin read an invocation from Don Zeiller, former Rotarian.

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

Motion by C. Zinna, second by C. Barzelatto, and all other members voting in favor,

BE IT RESOLVED that the Minutes of the August 14, 2012 Work Session, August 14, 2012 Public Meeting, and August 14, 2012 Closed Session (not to be released) are approved.

REVISIONS TO AGENDA:

Borough Attorney McClure advised that Ordinance 12-14 is being removed from the agenda and will be introduced at the September 27th Public Meeting.

PROCLAMATIONS:

Constitution Week – 225th Anniversary of the US Constitution

Mayor Rustin advised that the governing body received a request from the National Society Daughters of American Revolution to proclaim September 17th through 23rd as Constitution Week. He read the proclamation and presented it to Jean Thiel, representative from this group.

Mayor Rustin read another proclamation that he received from Governor Chris Christie proclaiming September 11, 2012 as Patriot Day and National Day of Service and Remembrance.

AUDIENCE REMARKS FOR AGENDA ITEMS:

Mark Feldman, 133 Lylewood Drive, questioned the resolution authorizing a refund for the tax court judgment for Knickerbocker Country Club and asked for an explanation as to why the Borough did not prevail. He also inquired why their land assessment is valued so much lower per acre than other properties.

Borough Attorney McClure advised that this case was not one that was tried, but rather negotiated and the settlement amount was a compromise that was recommended by the appraisal company who conducted the revaluation. He advised that this refund only pertains to one year, but the entire settlement involved a number of years. In terms of the revised land assessment, he explained that every property is individually assessed and there are reasons for them to be assessed at this value at this time. Mayor Rustin recommended that Mr. Feldman speak to the Assessor to ask for an explanation for the assessment. Borough Attorney McClure explained that the method of appraising country clubs is unique.

Peggy Fine, 22 Wight Place, inquired whether Ordinance 12-13 pertained to the property on Tenafly Road. Mayor Rustin responded that this property is totally separate from the Tenafly Road property.

CONSENT AGENDA:

- #R12-320/**Approve Expenditures as of September 5, 2012.
- #R12-321/**Amend Council Meeting Schedule – October 2012
- #R12-322/**Authorize Refund/Teen Summer Camp/Goldberg
- #R12-323/**Authorize Refund/Teen Summer Camp/Rodriguez & L'Heureux
- #R12-324/**Authorize Refund/Tree Mitigation Escrow/32 Lylewood Drive
- #R12-325/**Authorize Refund/Tree Mitigation Escrow/108 Buckingham Road
- #R12-326/**Authorize Release of Performance Bond and Acceptance of Maintenance Bond/
101 Piermont Road
- #R12-327/**Authorize Receipt of Bids/Furnishing and Delivery of one (1) new 2013
Rearloader Isuzu Garbage Truck (8 cubic yard) or Equivalent for the Tenafly
Department of Public Works
- #R12-328/**Authorize Refund/Soil Bond, Road Bond, and Engineer Inspection Escrow/
53 Hamilton Place
- #R12-329/**Appoint Municipal Representatives to the Community Development Regional
Committee
- #R12-330/**Authorize Refund/Tree Mitigation Escrow/70 Country Club Road
- #R12-331/**Authorize Refund/Soil Bond, Road Bond, and Engineer Inspection Escrow/
70 Country Club Road
- #R12-332/**Authorize Refund/Planning Board Trust Account PB#1-11-02/Tenafly Diner
- #R12-333/**Authorize Refund/Planning Board Trust Account PB#1-12-03/Capstone
Academy
- #R12-334/**Authorize Refund/Planning Board Trust Account PB#1-12-04/Tenafly
Montessori Academy
- #R12-335/**Authorize Refund/Planning Board Trust Account PB#1-12-05/Oogi Art NJ, Inc.
- #R12-336/**Approve Additional Engineering Services/Basketball and Tennis Courts
- #R12-337/**Approve Additional Engineering Services/Lightning Detection System
- #R12-338/**Approve Additional Engineering Services/Nature Center ADA Doors
- #R12-339/**Award Contract/2012 Road Resurfacing/Smith-Sondy Asphalt Construction
- #R12-340/**Approve Additional Engineering Services/Oversight of 2012 Road Resurfacing
- #R12-341/**Approve Place-to-Place Transfer/Expansion of Premises/Plenary Retail
Consumption License #0261-33-016-004
- #R12-342/**Authorize Refund and Release of Letter of Credit/Temple Sinai of Bergen County
- #R12-343/**Accept Proposal/Establishment and Maintenance of Borough's General Ledger
System/William S. Nadolny, CPA, CFO
- #R12-344/**Execute Grant Agreement with the County of Bergen/ 2012 Community
Development Block Grant Funds/Handicapped Accessible Improvements to
Community Center project
- #R12-345/**Authorize Refund/Tree Mitigation Escrow/21 Edgewood Street
- #R12-346/**Authorize Exception to Anti-Nepotism Ordinance/DPW
- #R12-347/**Cancel Check/TRN Realty
- #R12-348/**Close and Cancel Inactive Escrow Accounts
- #R12-349/**Authorize Refund/Tax Court Judgment/Knickerbocker Country Club
- #R12-350/**Authorize Refund/Overpayment of Taxes
- #R12-351/**Cancellation of General Capital Fund Grant Receivable
- #R12-352/**Approve Outdoor Seating Permit Applications/ Cactus Sushi and Good Taste
Restaurant, Inc.
- #R12-353/**Approve Raffle Applications 1025 – 1027
- #R12-354/**Authorize Refund/Tree Mitigation Escrow/168 Serpentine Road
- #R12-355/**Approve Change Order No. 1/Reggio Construction

Motion by C. LaMastra, second by C. Zinna that the Consent Agenda be approved.

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

C. Barzelatto:	aye, #R12-341 - abstain	C. LaMastra:	aye
C. Honig:	aye	C. Warms:	aye
C. Kerge:	aye, #R12-349 - abstain	C. Zinna:	aye

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

COMMITTEE REPORTS:

Councilwoman Kerge

Ms. Kerge reported that the Historic Preservation Commission met last Thursday with the Borough

Administrator & the DPW Director to discuss the lighting at Huyler Park and the Railroad Station. Both locations are expected to be lit before Christmas. The new sign for Elizabeth Cady Stanton House has been designed and will be going up very soon. In celebration of her birthday, a book about the friendship between Stanton and Susan B. Anthony is available at Womrath's and the HPC is looking to erect a statue of Stanton in town. A survey of memorial plaques to place in Davis Johnson Park has been commissioned and the survey has been turned over to the DPW.

The Library Board met last evening and they shared information on the work that they did over summer which included a schedule of movies and gatherings of parents and children for contests.

The Board of Adjustment met and the meeting adjourned after midnight. A resident prevailed in bringing about an appeal for a matter on which he believed that the Zoning Officer did not rule correctly. The board voted 5 to 2 in favor of resident.

Councilman Zinna

No report. He advised that his board meetings will begin next week.

Councilwoman LaMastra

Ms. LaMastra reported that TVAC met last month and they experienced a drop in their membership by approximately 15 members in August. She explained that the testing program has increased its hours and no one passed the course.

The Recreation Board had a discussion regarding the co-sponsorship policy. They will have their Bike Rodeo on October 13th and Annual Halloween Celebration on October 27th. Ms. LaMastra advised that the resolution to approve the additional engineering fees for the Lightning Detectors was on the Consent Agenda. She explained that there was a meeting between Bob Beutel, Andrew Hipolit, a representative from Tenaflly High School, and the Recreation Director to plot out the areas that need to be covered. They will meet again to further discuss this issue on September 17th. Ms. LaMastra advised that there were over 400 children registered for camp with no incidents. Football will be starting with 90 kids in regular tackle and 30 in flag football. The girls fall travel softball will have 4 different teams and will play in Bergenfield.

The Welcome Committee held its welcome event for new residents. Ms. LaMastra commended the committee for this wonderful event. Businesses in downtown contributed raffle prizes.

The BID Board met last night and approved its bylaws. Ms. LaMastra asked that that they be placed on the September 27th meeting agendas. Some members of the BID are looking at the parking situation in the downtown and want to come back to governing body with a proposal for new and revised regulations as they believe a lot of the parking that is tagged for commuters may be able to be opened up.

C. Kerge questioned whether the BID is opposing the use of the parking lot for the soccer field. C. LaMastra responded that they are sending a letter to the governing body to request

that they hold off on turning the lot into a turfed soccer field as they feel this lot may be needed for the business that is located on the corner.

Mayor Rustin

Mayor Rustin reported that he attended a Mayors Breakfast with Eric Kanefsky, Acting Director of the DCA, and representatives from United Water. United Water cannot account for 25% of water that goes through their system due to leaks and are looking to inspect their system. They are interested in looking at the systems underground when communities are looking to do milling and repaving. There was also a discussion of towns conducting inspections on homes to ensure that there are no illegal connections as the cost of illegal connections to both United Water and municipalities is remarkably high.

Councilman Barzelatto

Mr. Barzelatto reported that the Tenaflly Fire Department is attending a convention this week. They will be presenting the Junior Firefighter Program to the governing body next month for approval.

The Office of Emergency Management and Police Department are holding their Emergency Preparedness Seminar this Thursday at the JCC and this Friday, Mr. Barzelatto will be meeting at the Police Department with the schools, JCC, Clinton Inn, and Our Lady of Mount Carmel to discuss shelters during storm events. He will report back.

Councilman Warms

Mr. Warms advised that the Chamber of Commerce and Planning Board will meet tomorrow and he will report on those at the next meeting.

Councilman Honig

Mr. Honig explained that his committees have not met and asked that a Joint Use Committee meeting be scheduled. Mayor Rustin suggested that he email Borough Administrator Thompson-Chin to request that a meeting be scheduled.

Councilwoman LaMastra

Ms. LaMastra reported that there was a presentation at the Recreation Board meeting about placing outdoor fitness equipment in one of the Borough's park areas. She explained that this idea fits into Mayors Wellness Campaign and the equipment may be able to be purchased with open space funds.

Borough Attorney McClure clarified his earlier explanation regarding the Knickerbocker Country Club tax court judgment. He advised that this resolution pertains to the 2009 and 2010 tax years which predated the revaluation and was subject to 79-80% of market value. He explained that this amount is substantially less than what was set aside for these two years and expressed his opinion that it is a very good settlement.

OLD BUSINESS:

None.

NEW BUSINESS:

A. Introduction of Ordinances

C. Warms moved to introduce and pass on first reading Ordinance 12-13 and setting October 30, 2012 at 8:45 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. Barzelatto:

Borough Clerk read the ordinance into the record:

ORDINANCE NO. 12-13 - AN ORDINANCE AMENDING CHAPTER XXXV, SECTION 35-815 OF THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF TENAFLY PROVIDING SUPPLEMENTAL REGULATIONS FOR AGE-RESTRICTED HOUSING; ASSISTED LIVING AND/OR CONGREGATE CARE HOUSING; AND NURSING HOMES.

C. Honig stated that he fully supports the idea of having this type of housing, but does not understand the need to make a complete zoning change. He questioned why this matter isn't before the Planning Board or Board of Adjustment to obtain a variance and asked if it is appropriate to add to this ordinance a discussion about the ratio of parking that would be needed and the impact on traffic. He expressed his opinion that the governing body needs to hear from attorneys or professionals to be better informed. Mayor Rustin responded that this topic was discussed in length and the Borough Planner was present during that discussion. Borough Attorney McClure advised that Council doesn't grant exemptions for a specific property or spot zone, but rather makes wholesale changes that apply across board. He explained that the purpose of this ordinance is to increase the permitted density for any assisted living facilities that may be permitted in a particular zone. He agreed that the Board of Adjustment can give exemptions of this type for a specific property, but the reason for passing this ordinance is it is a change recommended by the Borough Planner, is consistent with this type of use, and is recommended by Planning Board.

C. LaMastra expressed her discomfort with this ordinance as this zone is very mixed and this blanket change would allow increased density on any property that meets the acreage requirement. Borough Attorney McClure responded that it would only apply for this particular use. C. Zinna pointed out that any applicant would have to meet the regulations and would not be exempted from the requirements pertaining to parking, traffic, etc. C. LaMastra questioned what might happen should this area become more commercial. Mayor Rustin explained that the uses in all of these zones will be revisited as they are redoing the Master Plan. He further advised that all of these concerns have been taken into account by the Planning Board before this proposal was brought to Council and added that this facility will be a wonderful ratable for this community.

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

C. Warms moved to introduce and pass on first reading Ordinance 12-15 and setting September 27, 2012 at 8:45 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 ordinances. Seconded by C. Zinna:

The Borough Clerk read the ordinances into the record:

ORDINANCE NO. 12-15 - AN ORDINANCE AMENDING CHAPTER XVIII OF THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF TENAFLY ENTITLED "SEWERS"

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

B. Piermont Road

C. Barzelatto expressed his opinion that the condition of Piermont Road needs to be addressed as there are a number of broken down trucks parked. Borough Attorney McClure advised that there are outstanding summonses for that situation. The case has been transferred to Teterboro, but is being held in abeyance pending the civil case being resolved. Council requested that this matter be listed on a Closed Session to receive an update on the status of this litigation.

AUDIENCE REMARKS FOR NON-AGENDA ITEMS:

Gerald Nigro, 5 Stonybrook Road, thanked the Council for their service to the community. He questioned whether the Tenafly Nature Center's Board of Trustees can move forward

without notifying its members and asked for an explanation on the process for the Nature Center to build a new facility. He pointed out that the cost of this project is approximately \$5 million and they do not have a business plan for how this money is to be raised. He expressed his opinion that without a plan, it would be inappropriate to go any further as the municipality could be liable for any cost overruns.

Mayor Rustin responded that the issue of notification is between the board and its members. He noted that the Council has been assured that the Nature Center is going to raise the money privately. In response to Mr. Nigro's comment about the municipality's liability, Borough Attorney McClure expressed his opinion that the Borough would not be liable as the Nature Center would be the entity that would be contracting and the Borough would simply be the landowner. He added that adequate safeguards in terms of performance bonds would be put into place.

Mr. Nigro asked that the other two sites that were considered acceptable locations for the building to be placed be released. He also requested that this issue be placed on the ballot as a referendum question.

Ernest Kollitides, 164 E. Clinton Avenue, advised that in looking at records back to the 1970s, the thread that connects everything together is the impression that this part of the Nature Center would remain wild in perpetuity. Although he noted that the building is small in comparison to the acreage, when you include driveways, parking, and turnarounds for buses, it is a much larger area.

Val Block, 21 Brook Road, expressed his hope that the Council will allow the public the opportunity to provide their input regarding this proposed building. He commented that both he and Mr. Nigro worked hard to get Green Acres and prevented buildings from being built that would have changed the character of this town.

Mayor Rustin commented that Mr. Nigro and Mr. Block did a spectacular job and helped make Tenafly what it is today. He assured them that the Council is determined to make sure that this proposal is handled properly.

Johanne Gambrill, Ravine Road, stated that if a board receives funding through taxes, she has been advised that they are subject to Open Public Records Act. She noted that when the BID Board changed their meeting date, they did not inform the Borough Clerk, post a notice in Borough Hall, or inform the public.

Borough Attorney McClure advised that there is no judicial ruling about whether BID Boards have to follow the Open Public Meetings Act. C. LaMastra noted that it is the BID Board's approach to notice all meetings and no notice being given was an oversight.

Ms. Gambrill commented that the board has failed to notice before. She pointed out that they have a new member sitting on the board who has not been approved by this Council. She expressed her opinion that there is no enforcement mechanism in place to make them follow the rules. She noted that their bylaws are almost identical to Livingston where Ms. Lippman is also director.

Mark Feldman, 133 Lylewood Drive, expressed his opinion that there needs to be more time spent on the proposed BID bylaws.

C. LaMastra responded that the bylaws have already been discussed and the Borough Attorney has made changes.

Mr. Feldman requested that Council consider releasing the revised copy to the public. He then advised that there was discussion at Recreation Board meeting about the proposed soccer field during which several members of the board objected to location for fear that balls would be kicked over and go into street. They also claimed that there was a transfer of land for senior housing and a history of putting all of these properties under Green Acres.

C. LaMastra advised that the Borough owns this property and it is considered open space, not Green Acres. Mayor Rustin pointed out that it is for this reason that this area cannot be restricted to Tenafly residents.

Mr. Feldman requested a status on the bond issue and asked at what date Council plans to have a vote on whether to move forward.

Mayor Rustin advised that Council's concerns have been addressed by the CFO, Bond Counsel, and Borough Auditor and the bond sale is scheduled on September 18, 2012. He

explained that Council had questions about callability, insurance, and the impact on taxpayer which they learned is negligible.

C. Honig raised the issue of the BID Board meeting and pointed out that action was taken as the board voted on the bylaws. Borough Attorney McClure advised that the bylaws are subject to approval by the governing body. Council decided to list the bylaws for discussion at the September 27th Work Session and will decide whether to place them on the Public Meeting agenda for approval at that time.

MAYOR'S REMARKS:

Mayor Rustin remarked that he ate at the Piermont Diner and had a discussion with Mr. and Mrs. Thorpe, a couple who married and moved to Tenafly 68 years ago. He commented that it is folks like them, Mr. Nigro, and Mr. Block who allow Council to learn about the history of Tenafly.

ADJOURNMENT:

As there was no further business to come before the Council, on a motion by C. Zinna, second by C. Honig, and unanimously carried, to adjourn this meeting. The meeting was adjourned at 9:46 p.m.

Respectfully submitted,

Lissette Aportela-Hernandez, MPA, RMC
Borough Clerk