

Borough of Tenafly

MAYOR AND COUNCIL

MINUTES

THURSDAY, SEPTEMBER 27, 2012

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

ABSENT: Council members Anthony Barzelatto and Martha Kerge

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

At 9:07 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.

REVISIONS TO AGENDA:

Borough Attorney McClure advised that Ordinance 12-16 "AN ORDINANCE AMENDING CHAPTER XXIX, SECTION 29-8 OF THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF TENAFLY CREATING AND DEFINING A SPECIAL IMPROVEMENT DISTRICT IN THE BOROUGH OF TENAFLY" was being added to New Business and a Closed Session matter regarding a BID Board legal issue is being added to the agenda.

PUBLIC COMMENTS:

Mark Feldman, 133 Lylewood Drive, noted that the BID Board is being expanded to 11 members and questioned what would constitute a 2/3 majority vote. He expressed his opinion that the requirements for the classification of the members has made it so that almost anyone can be a member. Mr. Feldman questioned how term limits work and whether it would be a conflict of interest that the board members can vote for themselves. He then asked for the justification for the BID Board matter being discussed in Closed Session and whether the bylaws specify whether the BID is subject to the Open Public Meetings Act.

Borough Attorney McClure advised that it would be 2/3 majority vote of all of the directors present at the meeting. He explained of the 11 members, 1 will be a Councilmember, 5 will be elected by the very people who are subject to the BID tax and have the most significant interest, 3 will be Class D members who will be elected by the BID Board, and 2 members will be appointed by Council. He stated that he needs more clarification to determine whether the subject matter pertaining to the BID falls under Closed Session. In terms of the BID being subject to the Open Public Meetings Act, he advised that it would need to be done by ordinance that they comply, but SIDs are not subject to the Open Public Meetings Act as they are considered a quasi-private entity.

CONSENT AGENDA:

#R12-356/Approve Expenditures as of September 19, 2012.
#R12-357/Certify Review of CY2012 Best Practices Inventory.
#R12-358/Award Contract to Lerch, Vinci, & Higgins, LLP/Calculation of Arbitrage Rebate Service
#R12-359/Authorize Escrow Refund/David Watkins, Esq.
#R12-360/Terminate 1954 Agreement with the City of Englewood
#R12-361/Authorize Receipt of Bids/Train Station Lighting Improvements
#R12-362/Approve Additional Engineering Services/Oversight Inspection of Train Station Lighting Improvements
#R12-363/Authorize Agreement/East Bergen Mutual Aid Association
#R12-364/Endorse Bergen County Community Development Grant Application/ADA Improvements with Handicap Swing at Walnut Park

#R12-365/Authorize Issuance of Outdoor Seating Permit/Dawn Till Dusk Convenience Store

#R12-366/Authorize Redemption of Tax Title Lien TTL10-1

Motion by C. Zinna, second by C. Warms 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. Warms:	aye
C. Kerge:	absent	C. Zinna:	aye

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

PUBLIC HEARINGS

A. ORDINANCE NO. 12-15:

The Borough Clerk read into the record:

The following ordinance published herewith was first read by title only on September 11, 2012, and posted on the bulletin board of the lobby of the municipal center.

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

Public Comments on Ordinance 12-15.

No one came forward.

Motion by C. Zinna, second by C. LaMastra that Ordinance 12-15 be passed on second and final reading and are 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. Warms:	aye
C. Kerge:	absent	C. Zinna:	aye

COMMITTEE REPORTS:

Councilman Zinna

Mr. Zinna reported that the Youth Services summer camp was a success with 130 campers. This number is a little less than last year, but camp generated approximately \$7,000 in revenue that can be applied to next year's camp. He advised that there will be two ski trips this year, one overnight and one day trip, in January and February. Signups will take place in October.

Councilwoman LaMastra

Ms. LaMastra attended an ADA Committee meeting and she advised that the group is frustrated as they have not received a response from governing body about designating more handicapped parking in the downtown. Mayor Rustin asked that Borough Administrator Thompson-Chin follow up with Chief Bruno on his recommendations. Ms. LaMastra reported that the latch on the adaptable swing in Roosevelt Commons is broken and a ramp needs to be installed at Walnut Park for access to the handicap swing. The committee is frustrated with Walnut Park as a whole as their input was not sought and they would not have purchased this swing set. The committee is requesting that a sign be placed on Tenafly Road directing people to the

park. They would also like to place a notice in the Recreation brochure advising which programs are open to handicapped participants. They are upset the inability of those in a wheelchair to use the high school track. C. Honig advised that he had brought this issue up at a Joint Use meeting and was told by the Board of Education that it is not a permitted use. Borough Attorney McClure noted that reasonable accommodations should be made for those in a wheelchair. The committee is going to come to the October 16th meeting to discuss the All Access County meeting. The parking lot between the swim clubs has two designated handicap spots, but they are not van accessible. C. LaMastra questioned whether they could restrike those spots and Borough Administrator Thompson-Chin responded that she will speak to the Borough Engineer. She also advised that she has spoken with Lou Mondello about scheduling a Joint Use meeting and they are looking at dates in October. C. LaMastra reported that the committee is still working with Chief Bruno and Matthew Mercurio on preparing ID cards.

TVAC met on Monday. She explained that the course for new volunteers has increased the hours for training and for the practical part of the test, they are actually given a scenario in which they have to respond as ambulance people would and cover all aspects of the situation, making it tougher to pass. She advised that individuals have retaken the test and passed practical, but are waiting to take written examination.

Mayor Rustin

Mayor Rustin noted that the concession stand and bathrooms are open and everything is functioning great. He commended the Recreation Director as he coordinated everything. C. LaMastra advised that there will be a ceremony with a ribbon cutting to thank all people who contributed to the project and the governing body is welcome to attend.

Mayor Rustin reported that a group of mayors from the Northern Valley Mayors Association went to NJ Transit to get an update on the Light Rail project and to push for an extension of the Light Rail. NJ Transit had over 1,200 comments to the DEIS and the next step in the process is to have final EIS which can take 18 months to 2 years. They are still trying to identify funding. NJ Transit reminded the group that to extend the line beyond Tenafly would create a new project, causing them to have to start all over again. They are aware of Tenafly's stance and are considering extending the line to Englewood/Route 4.

Councilman Warms

Mr. Warms reported that the Chamber of Commerce's Street Fair is scheduled for October 20th and 21st. The DPW and Police facilities are set up and everything is proceeding according to plan.

The Environmental Commission met and Bob Beutel reported on the Outsmart Waste Conference. 60% of the Borough participates in recycling, whereas 44% participate in the county overall. The commission is considering a Spring program to receive Sustainable Jersey points.

Mayor Rustin advised that Woofstock, organized by a private group, will also take place in October.

C. Honig asked for a status on the United Way project. Mayor Rustin responded that the DEP has requested additional information and has given the Borough until October 23rd to submit said information. Mayor Rustin has been told that this information will be provided well ahead of the deadline and noted that there is another engineer working on this project along with David Hals. C. Honig questioned who is paying this engineer and Borough Administrator Thompson-Chin advised that they are responding directly to United Way. Borough Attorney McClure explained that the Borough has not assumed any contract with any of United Way's contractors other than those obligations under the purchase contract. C. Honig questioned who owns the property and Mayor Rustin explained that United Way put a down payment to hold the property, but Mr. Kim still owns it. C. Honig inquired why the Borough Engineer is not involved. Mayor Rustin responded that it was decided that this project would be one of the last projects that David Hals would undertake on behalf of the Borough as he has been involved for so many years. C. Honig asked who made that decision and questioned the legality as he does not believe that the proper procedure was followed. Mayor Rustin and Borough Administrator Thompson-Chin will look into C. Honig's concerns and report back.

Dan Messer, 187 E. Hudson Avenue, Englewood, requested to speak and Council granted said request. He questioned whether the agreement with Englewood has been terminated and whether Englewood has agreed. Borough Attorney McClure responded that the agreement was terminated by way of Resolution #R12-360 and Englewood is aware. He advised that they need to make a decision as to the reciprocal part of that agreement. Mr. Messer requested that he receive something in writing to confirm that the agreement was terminated and Borough Attorney McClure replied that he can get a certified copy of the resolution once it has been signed.

OLD BUSINESS:

None.

NEW BUSINESS:

- Introduction of Ordinance

C. Zinna moved to introduce and pass on first reading Ordinance 12-14 and setting October 16, 2012 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. Warms:

Borough Clerk Aportela-Hernandez questioned whether Ordinance 12-16 was being added. Borough Attorney McClure recommended that it not be introduced tonight so that he can get clarification on the wording with respect to the Class D members. Council agreed that Ordinance 12-16 will be introduced at the October 16th Public Meeting.

Borough clerk read the ordinance into the record:

ORDINANCE NO. 12-14 - AN ORDINANCE TO CREATE SECTION 3-15, ENTITLED "FAIRNESS IN BOROUGH CONTRACTING," OF CHAPTER III OF THE OF THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF TENAFLY

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

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

- Observance of Holidays

C. LaMastra raised the issue of the work Contractors can and cannot do on a holiday. She expressed her opinion that the ordinance is not being enforced in a manner that is fair-handed and questioned whether there should be an ordinance that dictates which holidays to observe. Mayor Rustin expressed his belief that the mistake that was made was in not reminding contractors about Yom Kippur. C. LaMastra argued that the Borough should not dictate how people observe holidays. Borough Attorney McClure advised that the Borough does have the right to pick a specific day for no work and most courts have allowed restrictions on specific holidays. C. LaMastra questioned why other holidays such as the

Chinese New Year are not included and Mayor Rustin responded that if a group came before the Council to request that their holiday be recognized, he feels that Council would be obligated to consider their request. C. LaMastra criticized the notification process as too many contractors and landscapers were caught off guard. Council discussed announcing the dates at the Reorganization Meeting, putting a notice in the newsletter, and giving a notice when permits are issued.

MAYOR'S REMARKS:

Appointment to the Board of Adjustment – Alternate #2 – Sean Li

Mayor Rustin advised that Sean Li will serve as the second alternate, filling the vacancy left by Jonathon Fox's resignation.

Council took a brief recess at 10:15 p.m. The meeting resumed at 10:21 p.m.

Council announced that it would not be necessary to enter into Closed Session.

ADJOURNMENT:

As there was no further business to come before the Council, on a motion by C. Warms, second by C. LaMastra, and unanimously carried, to adjourn this meeting. The meeting was adjourned at 10:21 p.m.

Respectfully submitted,

Lissette Aportela-Hernandez, MPA, RMC
Borough Clerk