

Approved: November 25, 2008

Borough of Tenaflly

MAYOR AND COUNCIL

COMMITTEE OF THE WHOLE

MINUTES

THURSDAY, NOVEMBER 6, 2008

The meeting was called to order at 8:00 P.M. with the reading of the Open Public Meetings Act statement by Mayor Rustin.

Present: Mayor Peter S. Rustin

Council members: Carol Hoernlein, Nadia LaMastra, Michael Lattif,
Joseph McDermott, Patrick J. Rouse, Jon Warms

Borough Administrator: Joseph Di Giacomo

Borough Attorney: William R. McClure, Esq.

Absent: None

Mayor Rustin read the following statement:

"Public Comments: A total of 15 minutes has been allocated for this purpose. Citizens are welcome to address the Mayor and Council on any governmental item of concern to them, whether or not it is scheduled on the agenda below. Citizens must give their names and addresses when recognized to speak. Large groups are urged to select someone to represent them. The public is advised that these meetings are recorded and are subject to the Open Public Records Act."

1. Tom Giordano, 12 George Street, Tenaflly, expressed concern about the demolition of several homes on his street and the need for inspections for asbestos removal from the sites at the time of demolition.

The Borough Administrator will check with the Director of Buildings.

2. Richard Rodriguez, 30 Ridge Road, Tenaflly, member of the Recreation Commission, along with members Fidler, Sabatino, Swift and Van Poznak, questioned the Council on what basis did the Council overturn the Commission's decision to allow out-of-town residents to participate in the travel team.

The responsibilities of the Recreation Commission will be discussed at the next work session on November 17.

3. Melvin Lubins, 33 Stony Brook Road, Tenaflly stated the LOSAP question on the ballot at the general election was misleading, claiming there is no ceiling on the limit of the Cost of Living Index.

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The Borough Administrator responded that included in the ballot question was the reference to limits as promulgated by the Division of Local Government Services in the Department of Community Affairs.

1. **TO BE CONSIDERED**

A. Borough Engineer to be present to discuss Drainage Plan for Engle-Elm-Oak-Dean improvements.

Borough Engineer David Hals explained the current piping system in Engle Street can only handle one-two percent of the water in a 25-yr storm. His plan includes replacing a 24" pipe with a 36" pipe in the same trench on Oak; switch to the other side of the street to install a 36" pipe in Serpentine; and replace the current 21" pipe in Elm Street with a 36" pipe. He proposed a detention basin in the Dean Park area of Dean Drive, approximately 750' long by 50' wide, with a 3' depression. He advised we will need BCUA and Bergen County Soil Conservation approval. Borough Administrator expressed concern about the aesthetics of a detention basin at that location and will try to obtain photographs of several types to give the Council a clearer idea of the appearance. Mr. Hals is in touch with the County Engineer about providing half the funding for the Engle Street portion of the project.

David Ascitutto, 44 Dean Drive, Tenafly was permitted to speak. He commented that his property is at the lowest point on Dean Drive and can not handle any more water. Severe rainstorms produce a cascade of water from Inness Road behind his property. The Borough Engineer explained that the rear yard flooding he experiences will not be ameliorated by the installation of a detention basin in Dean Park; the detention basin will address the flooding from Elm and along Dean Drive directly.

It was the consensus of the Council to move forward to introduce the funding ordinance for this project at the November 13 public meeting, and also to authorize the receipt of bids on January 6 to anticipate starting the project in early Spring or late Winter, weather permitting.

It was pointed out that Dean Park was on the ROSI and that could possibly delay the Dean Drive phase of the project.

Borough Engineer will move ahead with design for Dean Drive drainage improvements; Borough Administrator will contact Green Acres regarding the ROSI and the ability to take corrective actions necessary for drainage improvement in the area; Councilman McDermott stated he will take the project to the Environmental Commission.

B. Review draft ordinance on snow removal in downtown area (10/21 COW)

The Borough Clerk will forward a copy of this draft ordinance to the President of the Chamber of Commerce to review with his membership at their November 12 meeting and request a response prior to the November 17 work session. The intention of the Council is to introduce the Ordinance on November 25.

C. Recreation request/new program/H.S. In-town Basketball League (new)

Program is approved to move forward; Borough Administrator will advise Recreation.

D. Mandatory Recycling Materials additions/Section 19-2.5 (new)

The amending Ordinance is scheduled for introduction at the November 13 public meeting.

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E. Planning Board/Recommendations to Amend Zoning Map/add Three Historic Sites (new)

The Ordinance amending the Zoning Map will be introduced at the November 13 public meeting.

F. Tree Inventory Grant (deferred from 10/21 COW)

Borough Administrator will advise Director of Public Works to go ahead with the grant application.

G. Consider response to Planning Bd Chair on letter in Suburbanite (from 10/21 COW)

Following brief discussion, the Borough Clerk was requested to send a letter to the Planning Board Chair on behalf of a majority of the Council, expressing their disappointment with the Chair's decision to write a Letter to the Editor of the Suburbanite instead of communicating the disappointment of the Planning Board over the rejection by the Council of the Two-Family Homes Ordinance directly with the Council.

H. Parking Lot "O" conflicting signs/Police Chief memo of 10/28 (new)

The clarifying ordinance will be introduced at the November 13 public meeting.

I. Police Chief's request regarding Elected Officials 'badges' (new)

Following brief discussion, the Council reaffirmed their decision in 2006 not to issue facsimile badges to incoming Council members. They agreed that the Police Chief should contact former Council members to relinquish such badges issued by Department personnel.

J. Police Space Improvement (Mr. McDermott)

Mr. McDermott questioned what was authorized as the next step on this project following the rejection of bids. Borough Administrator reported that at a Police Commission meeting, he was asked to meet with the Architect to develop a minor plan of the footprint of the existing building to expand the building north toward Riveredge Road to take back to the Police Commission for their review.

K. HPC request to revise Preservation Ordinance to recoup legal expenses (new)

The Borough Attorney explained that the municipality can not 'fee shift'; that can only be written by the State legislature. The governing body does not have the authority to write fee shifting ordinances.

L. Planning Board/revised Development Fee Ordinance (new)

This Ordinance will be introduced at the public meeting on November 13. The Borough Administrator reported he had asked the Borough Attorney and Special Counsel for COAH to give an opinion on "demolition". It was mentioned that a policy should be established for attorney review of a proposed ordinance of this nature; a signed statement from the corresponding attorney that the ordinance has been reviewed by him.

2. **ADMINISTRATOR'S REPORT**

A. Engle Street temporary measures/status

While the Engineer was still present, the Administrator reported that only three of the four homeowners contacted had responded positively to the offer of sandbags as

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a temporary measure on Engle Street. The fourth homeowner had not responded at all. The Administrator inquired if the Council wished to move forward without that response, but Council decided to stay with the original plan that either all signed on or it would not be done. The Mayor volunteered to contact the lone holdout.

B. Cable TV Franchise Renewal/update

The Administrator explained that the draft ordinance was drawn up based on the last set of comments we received from Cablevision in July. They have now sent more comments with ten issues, two of which are major: concerning the contribution of \$15,000 for equipment, they propose to give \$6,000 up front, with \$9,000 to be paid \$1,000 a year over the life of the contract. After a brief discussion, the Administrator was authorized to negotiate this issue with Cablevision. The second major issue is the interconnection issue. The Administrator recommended and the Council agreed that we stand firm on this vital need.

The Borough Attorney will revise the language addressing wire removal when a resident discontinues their service.

C. Railroad station lease/code issues

Borough Administrator distributed photographs of attic usage by the current tenant. He reported there is 890 square feet of attic floor space and 1400 square feet on the first floor. The lease agreement with the Borough is only for the first floor. The Administrator recommended the tenant be told to either vacate the attic, or have it brought up to code, install fire suppression system, contact the Historic Preservation Commission for their input, etc. The Council agreed. The lease expires December 31, 2008.

The Borough Administrator had one additional item:

D. Council Retreat

The Council had allocated funding in the Administrator's 2008 budget for an off-site retreat. He reported that Reagan Burkholder, who has facilitated sessions for us previously, is available either Saturday, December 6 or Saturday, December 13. Council decided to postpone retreat until January 2009 and decide what format they would like for this event. Borough Administrator will forward an email he received from Mr. Burkholder with various format options for Council to consider.

3. **CORRESPONDENCE**

A. R. DiMenna/21 So. Summit Re: Request for Tenant Parking

As this is an exception to the downtown overnight parking provisions included in the Parking Ordinance, Council agreed to issue a tenant parking hang tag for overnight parking in George's TV lot on South Summit Street. The Police will be notified of this specific exception.

B. B.C. Dept of Health Svcs. Re: Employee Assistance Program 2009
Budget 2009 consideration

C. NJ Transit Re: Grant Program/Mobility Mgmt Projects

Borough Administrator suggested considering this program for a jitney vehicle in the future.

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D. Presbyterian Church Re: Request/Temporary Signage

Approval will be scheduled on the November 13 work session, but not given for signage display in Huyler Park.

4. **CLOSED SESSION**

At 11 p.m., the Borough Attorney read the following resolution:

Motion by Council member LaMastra, second by Council member McDermott, and unanimously carried:

RESOLVED that in accordance with N.J.S.A. 10:4-12, the Mayor and Council will go into Closed Executive Session for the purpose of discussing the following matters:

Legal – *to be presented by the Borough Attorney*

1. Hudson Ave land acquisition

Minutes will be taken of the meeting and released to the public at the time the matter is resolved. After the Closed Executive Session, the Mayor and Council will reconvene in the Richard D. Wilson Committee Room to resume the Committee of the Whole meeting.

The public meeting resumed at 11:50 p.m.

5. **RESOLUTIONS for the meeting of November 13, 2008:**

- A. Approve November expenditures
- B. Authorize Refunds/Tree Removal Mitigation Escrows
- C. Authorize Building Dept Refund/Cancelled project
- D. Award Bid/Solid Waste Collection Services

6. **PUBLIC HEARINGS for meeting of November 13, 2008: None.**

7. **COMMITTEE REPORTS – None.**

8. **MINUTES to be approved:**
- Work Session of October 21
 - Special Closed Session on October 28
 - Regular Meeting of October 28

9. **OTHER BUSINESS**

Mayor Rustin reported that the owner of the vacant lot across from D&C Honda (former gas station) had approached him as the owner wants to flip it. Mayor asked if the Council wants to consider the parcel of land; it was agreed to discuss it further at the work session on November 17.

10. **FOR THE GOOD OF THE ORDER**

- A. Effective Council Meetings (Mr. Lattif)

Mr. Lattif expressed concern about the conduct of the governing body members at meetings, focusing on their behavior toward each other and offered a three-part plan for his colleagues to consider to avoid future confrontations:

1. We each commit to speak with respect to each other and to listen to each other with respect. All agreed.

2. The Chair must make sure order and decorum is observed at all times and all members must respect the Chair and the authority of the Chair in controlling the conduct of the meetings. It is the function of the Chair to move the agenda along with efficiency and productivity. All agreed.

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3. Should the Chair, in trying to maintain decorum, be ignored by a recalcitrant member of the governing body, individual Council members should stand up silently to indicate their displeasure with the offending Council member.

Mayor Rustin promised his commitment in his function as Chair of the meetings.

B. Councilman Rouse mentioned the need of the ADA Committee to expand their membership and asked that this item be placed on the next work session agenda for Council consideration of amending language to the current Ordinance.

C. Mayor Rustin reminded the Council that at Recess Meetings of the current Council, prior to Reorganization, it has been tradition to honor outstanding residents of the community for their dedicated service. He suggested two names and asked the Council to consider them and offer their ideas as well. This will be on the work session agenda for November 17 to confirm.

D. Councilwoman LaMastra wished to thank the Borough Clerk for her prompt posting of election results to the Borough website on election night, stating that no other Clerk in the area had done so and the effort was appreciated.

E. Mayor Rustin asked if the Council was interested in dining together at the League of Municipalities Conference in Atlantic City as has been done the last several years. The Borough Administrator expressed concern about the cost of continuing that practice in these economic times and asked the Council to consider eliminating the planned dinner. A resolution was passed in 2007 limiting the cost of meal reimbursement for conferences attended by employees and that will be the guideline for meals at the League Conference.

11. **ADJOURNMENT**

As there was no further business to come before the Council, on a motion by Council member McDermott, second by Council member LaMastra, and unanimously carried, to adjourn this meeting. The meeting was adjourned at 12:14 a.m. on Friday, November 7, 2008.

Respectfully submitted,

Nancy Hatten