

**MINUTES  
REGULAR MEETING  
MUNICIPAL COUNCIL – BOROUGH OF RED BANK  
MARCH 23, 2016  
6:30 P.M.**

**PLEDGE OF ALLEGIANCE**

Mayor Menna called for a moment of silence for the people of Brussels, Belgium who had recently been victims of senseless violence.

**ROLL CALL**

**PRESENT:** Mayor Menna and Council Members Burnham, Zipprich, Horgan, Schwabenbauer, Taylor and Whelan.

**ALSO PRESENT:** Borough Administrator Sickels, Borough Clerk Borghi, Chief Financial Officer Poulos, Attorney Cipriani and Engineer White.

**SUNSHINE STATEMENT**

Mayor Menna requested the minutes reflect that, in compliance with Public Law 1975, Chapter 231 (Open Public Meetings Act), notice of this meeting has been provided by notifying the Asbury Park Press, the Two River Times and the Star Ledger and by placing a notice on the bulletin board and filing same with the Borough Clerk on January 2, 2016.

**WORKSHOP**

**RFP for Commercial Boat Launch at Marine Park**

Mayor Menna discussed issuing a request for proposals to operate a commercial river boat service for Marine Park. He reviewed the details of issues that needed to be considered for the site. He said it would take time and creativity and would probably not be awarded for this year. He noted the previous service that had been at that location and also discussed other municipalities with similar services. He discussed the need for Red Bank to remain competitive. He said he knew the Park and Recreation Committee had been discussing the matter but said he felt the Council should offer their opinion on the issue.

Councilman Taylor agreed with some of the Mayor's concerns but said he did not think it was a bad idea to move forward proposals. He also confirmed that it would be a decision for 2017.

Councilwoman Burnham said she remembered the previous service and said it had been a huge success. She said she felt Red Bank should make better use of the water. She said she felt the concerns could be worked out. She said she felt it would be a draw to the town.

The Council consensus was to move forward.

Attorney Cipriani said she could reach out to a municipality with a similar service for background.

Mr. Sickels said he had also provided documents from the previous vendor that had been there.

The Council also discussed parking issues and the businesses in the park.

Mayor Menna said the previous venture had been successful and also noted that he felt parking at the property was public parking. He also noted that the previous vendor had used a valet system when they had cruises to help his guest conveniently find parking.

**Concession Stand at Riverside Gardens Park**

Mayor Menna said a sample request for proposals had been distributed to Council for review. He said responses would be due April 18 for private enterprises to operate the concession stand. He reviewed the benefits and also said he felt the time frame that it remained open should be left to the vendor. The Council discussed modifications that would be allowed and Mayor Menna said they could not make changes to the exterior. Mr. Sickels reviewed other details of the specifications. The Council discussed insurance requirements and liability issues.

Councilman Zipprich said he would like more time to review the proposal before voting on it.

Mayor Menna noted the short time frame to get a concessionaire in place. He said the RFP called for inspections on April 12 and an award on April 18.

Councilman Taylor also noted that this was a Request for Proposals and not an award. He added that proposals could be rejected.

Mr. Sickels also noted that addendum could be done.

Councilwoman Burnham said she was in favor of moving forward.

Councilman Whelan offered a motion to move forward with the request for proposals, seconded by Councilwoman Burnham.

**ROLL CALL:**

**AYES:** Burnham, Horgan, Schwabenbauer, Taylor, Whelan

NAYS: None

ABSTAIN: Zipprich

There being six ayes, no nays and one abstention, the motion was declared approved.

### **Areas in Need of Redevelopment – Abandoned Properties**

Mayor Menna said State law made ample provision for owners of properties that are abandoned or in need of redevelopment to make application to a municipality to have the property declared a property in need of redevelopment. He said it would still be subject to approval by the Planning Board. He said the property owner of 55 West Front Street had requested that the Council move forward with a scoping examination to determine if the property meets the criteria through non- eminent domain condemnation. He said there were probably other properties in town that had been similar abandoned that may also be eligible for a similar determination. He encouraged the Council to move forward with it and said the property owner would be giving the municipality the right to inspect the property with the planner to make a determination to make a determination that would be heard before the Planning Board as to whether the criteria meets that set forth in the redevelopment act. He said Red Bank was facing extraordinary challenges and said downtown could not rest on its laurels and said it was slipping and would continue to do so. He compared Red Bank to other municipalities in the area that were moving forward. He reviewed vacancy rates in new versus older properties and said it was troubling. He call for the Borough to be competitive with the other municipalities. He said to do nothing would be dangerous and would send the wrong message to the development community. He called for the Council to move forward. He said there was a resolution for the Council's consideration.

Councilman Zipprich asked if it would be applicable to only 55 West Front Street.

Mayor Menna confirmed that it would.

Councilwoman Burnham asked if they would have to post a bond.

Mayor Menna said the Planner would provide an estimate for Plan Review and, under law, the property owner would have to pay it. He also said they would only move forward if it was paid.

Councilman Zipprich asked if the property had received the designation in the past.

Mayor Menna said it couldn't unless the Borough declared it so. He reviewed the way the designation could be made. He said it would have to be at the owner's request because the Council had previously adopted an ordinance prohibiting the use of eminent domain.

Attorney Cipriani noted that the law had recently been changed to allow for non-condemnation redevelopment areas.

Councilman Zipprich express concern because the matter had been reviewed by the Zoning Board and he was concerned that the Council was usurping their authority.

Mayor Menna said he respected that opinion but would categorically deny it adding that their jurisdiction ended when they voted it down.

Councilman Zipprich asked if the applicant had the right to appeal the "no" vote from the Zoning Board.

Mayor Menna said they were not going to appeal and expressed concern that the Borough would be left with a blank piece of property.

Attorney Cipriani said the Zoning Board had the authority to hear applications for variances from existing ordinances. She said if it was designated an area in need of redevelopment and they did a redevelopment plan ordinance, it would either be an overlay or would supersede existing zoning. She said the Zoning Board would not be in the same position and it would go before the Planning Board because it would be compliant with the redevelopment plan ordinance that had been adopted.

Councilman Zipprich asked if the developer could go back to the Planning Board with the same set of plans and said number of units if that occurred.

Attorney Cipriani reviewed the process and said ultimately the Council would have to adopt a redevelopment plan ordinance that would lay out the permitted uses and bulk standards permitted for the area. She said they might match up with what had previously been proposed or they might be totally different.

Councilman Zipprich asked if it was spot zoning.

Mayor Menna said it was not and suggested they look at other successful municipalities in the state that had used the law to revitalize properties. He said it was a tool for the Borough to be creative and asked the Council to look at it. He noted there was a resolution on the agenda.

Councilman Zipprich asked how it would apply to other developers.

Mayor Menna said it would have to meet the criteria, they would have to send a request to the Council and the Council would have to review that request. He said it was not a blanket tool and the Council could say no to future requests.

Councilman Zipprich asked if it could be used as a device to avoid going before the Boards.

Mayor Menna said they would still have to go before the Boards.

Attorney Cipriani added that there was nothing in the existing law that obligated the Council to approve future requests. She also noted that any requests that were approved were subject to a full investigation by the Planning Board as was set forth by Statute. She said it would then come back to the Council for a Redevelopment Ordinance.

Councilman Zipprich expressed concern about overdevelopment and setting a precedent.

Attorney Cipriani said the intent of the law was to provide more municipal control not less.

Councilman Whelan said he agreed with the Mayor's comments and said he feared what would happen in Red Bank did nothing. He also noted surrounding towns that were moving forward. He said Red Bank should be a leader and said he looked forward to the opportunity to review the matter.

Mayor Menna reviewed municipalities that had successfully use the law and again spoke in favor of it.

Councilman Zipprich again expressed his concerns and noted his concern for historic preservation.

Mayor Menna said he agreed with the concern and noted that he was one of the Council members that had brought forward the Historic Preservation ordinance. He said he understood if they were discussing a historic building but noted they were discussing a vacant lot.

Councilman Zipprich review previous projects that had taken historic properties.

Councilman Whelan said he felt they had a duty to keep up with other towns and keep up with the changing environment.

Councilman Zipprich said he felt they were showing preferential treatment.

Mayor Menna said he stood by previous decisions that had been made and said it had helped rejuvenate the town.

Councilman Zipprich again expressed concern about setting a precedent.

Attorney Cipriani said it was not a situation where a precedent would be created and said the purpose of the law was to look at each site specifically and said they would never have two cases with identical facts for consideration by the Council. She said no entitlement would be created.

### **Community Street Lights**

Mayor Menna reviewed how issues were currently reported and called for a better procedure to report when issues such as when streets lights were out. He called for an interactive feature on the website.

Councilwoman Horgan said that that service was already in place.

Administrator Sickels noted that the Borough was in the process of transitioning to a new website vendor and said a complaint function was included.

Councilman Zipprich said the Public Works Committee had also discussed the use of the Pot Hole voice mail and said he could see that being added to the service.

Councilwoman Burnham said if citizens saw something they should call Borough Hall to report it.

### **Parking Contribution Moratorium**

Councilman Whelan noted the current extension of the Parking Moratorium was about to expire and he was recommending that it be extended for six months. He also reported that RiverCenter had proposed adding golf carts for a shuttle service that traveled a loop within the Borough. He said they would work with the Police Chief.

Councilwoman Burnham asked how the extension of the Parking Moratorium would benefit the Borough.

Councilman Whelan said he had a problem with the Borough collecting the fee but not using it toward creating parking. He questioned what the incentive would be for a business to open in Red Bank.

Councilwoman Burnham noted the Borough had continued to extend it and said she saw the parking problem every day. She called for simplifying the formula and putting the money into the parking utility for improvement.

Councilman Whelan said he would like to see it extended until they could come up with a long term solution. He reviewed a case that was before the Planning Board where a very small business was short by 35 spaces and called for a better solution.

Councilwoman Burnham questioned the delay and said it would affect the residents.

Councilman Whelan said it would only be a six month extension.

Councilwoman Burnham cited the CME report recommendations for how the fees should be used.

Councilman Whelan expressed concern about businesses that could be lost.

Councilwoman Burnham expressed concern about some of the retail businesses that had changed from retail to restaurants and the increase in employees. She stressed the need to address that parking.

Mr. Whelan said he agreed with her comments but did not feel it had to do with the moratorium.

Mayor Menna said he understood the concern with restaurant staff parking issues but he said he also agreed with Councilman Whelan concerns about businesses that were currently in town that might not have opened had the contributions been in effect.

Councilman Whelan again said he felt the six months extension was appropriate and said the concerns would be reviewed by the Parking Committee.

#### **APPROVAL OF MINUTES – March 9, 2016**

Councilman Zipprich offered a motion to approve the minutes, seconded by Councilwoman Horgan.

ROLL CALL:

AYES: Burnham, Zipprich, Horgan, Schwabenbauer, Taylor, Whelan

NAYS: None

There being six ayes and no nays, the motion was declared approved.

#### **MAYORAL APPOINTMENTS**

Debbie Marks to the Shade Tree Committee for an unexpired 3-year term ending 12/31/2017.

Councilman Zipprich offered a motion to affirm the appointment, seconded by Councilwoman Burnham.

ROLL CALL:

AYES: Burnham, Zipprich, Horgan, Schwabenbauer, Taylor, Whelan

NAYS: None

There being six ayes and no nays, the motion was declared approved.

#### **REPORTS OF MAYOR AND COUNCIL MEMBERS**

Councilwoman Burnham announced an event at St. Anthony's on Monday, April 4<sup>th</sup> from 5pm to 7pm for free lighting for bicycles. She noted local businessman Dean Ross was donating to the cause. She also reported that the Community Garden was full. She also noted that she had attended the Primary School Science Fair on March 16<sup>th</sup> and had been very impressed.

Councilman Zipprich reported that the Historic Preservation Commission had met the previous night to review plans and continued to work on its Annual Report and Historic Inventory which he said would be forthcoming in the next month or so. He said the Shade Tree Committee had met the previous week to review the Forestry Management Plan, ongoing maintenance and the pruning schedule. He said he also discussed continuing education requirements for Committee members. He reported that the Department of Public Utilities Committee meeting have been rescheduled to the following week due to the fact that the DPU conference had been held in Atlantic City previous week. He said he had attended a graduation ceremony there and congratulated Terrence Walton and Maria Rotolo on the completion of the Certified Public Works Manager program. He noted Ms. Rotolo was one of only four women to graduate out of the class of 74. He said Bridge Avenue was under construction and gave an update on details of the project. He also noted curb cuts had been completed for the Parking Lot at Count Basie Field and said signage was on order. He also reported that the fountain would be reinstalled at Mohawk Pond in the coming month and that it would be stocked with fish in early April. He said the North Prospect and Library bulkhead projects would be underway the following month.

Councilwoman Horgan reported that on Wednesday, March 30, the Library would be screening the movie "Innocent" as part of the "Let's Talk About Race" program. She said there would also be face painting for children at 6:30pm with the movie starting at 7pm. She also reviewed Library events scheduled for the month of April which said were posted on the website. She said April 10 to 16 would be National Library Week which would feature of theme of "Libraries Transform." She said the Friends of the Library organization would be sponsoring the annual Bookmark contest. She said the winners would be feted on Saturday, April 16. She also thanked the Red Bank Women's Club for their support of the printing of the bookmarks. She said April would also be Poetry Month and said the Library would be hosting poetry workshops with national award winning teen poet Eileen Huang.

Councilman Whelan said he wanted to congratulate RiverCenter on the recent Wedding Walk which he said was a great event. He said he had also attended the Arts and Science show at the Primary School and said he had been impressed with the talent of the children.

Councilman Taylor said the Parks and Recreation Department had held a very successful Easter Egg Hunt and he thanked everyone who had participated. He thanked the Red Bank Police Department and the Red Bank Key Club for their assistance. He also said he was happy to greenlight the Community School program which he said was a collection of classes and programs for children. He reviewed other Parks and Recreation programs including the Couch to 5K program currently underway and a family trip to Turtle Back Zoo. He also noted the Department had a Facebook page which he said was a good way to stay on top of events and programs. He said there was a tremendous new Director that had been very active in creating more programming. He said the Department would start offering later hours on Wednesdays beginning April 13. He said he also wanted to offer a couple of comments saying that the constructions notices to residents on Bridge Avenue had been distributed in mailboxes and he asked that the responsible party be notified that they should not do that as it was a felony. He also noted that some of the "No Parking" notices had been stapled into trees which was also a bad practice.

Councilman Zipprich said he would bring those matters to the attention of the Director.

Councilwoman Schwabenbauer said the Finance Committee had been busy working on the budget and noted the hours that CFO had been putting in. She said it would be presented at the next meeting.

Mayor Menna thanked her and the Committee for their hard work on the budget.

Mayor Menna noted he and Councilman Zipprich has attended the 27<sup>th</sup> Annual Men's' Breakfast at Pilgrim Baptist Church.

## **COMMUNICATIONS AND PETITIONS**

By Consent Agenda:

Events Approved by the Special Events Committee:

- Request from Red Bank Regional Alumni to hold a football game at Count Basie Field on Saturday, May 21, from 2 to 6pm.
- Request from Friends of the Red Bank Library to hold the Town Wide Yard Sale on Saturday, May 7, 2016 from 9 a.m. to 2 p.m.
- Request from Count Basie Theatre to hold Annual Dinner/Concert Gala on Friday, June 17 from 6:30 to 11 pm.
- Request from Liberty Hose Company of the Red Bank Volunteer Fire Department to hold their Annual Robert "Doc" Holiday Memorial Car Show in the White Street Parking Lot on Sunday, July 10 with a rain date of July 17 and to close White Street from 7am to 4pm.
- Request to hold 3<sup>rd</sup> Annual Michael (Pop) Conlin Irish Wake Fundraiser at the Dublin House on Saturday, July 30 from 2 to 7 pm and to close White Street, Broad Street and Monmouth Street for 20 minutes at 2 pm for Pipe Band march.

Councilwoman Schwabenbauer offered a motion to approve the requests, seconded by Councilman Taylor.

ROLL CALL:

AYES: Burnham, Zipprich\*, Horgan, Schwabenbauer, Taylor, Whelan

NAYS: None

There being six ayes and no nays, the motion was declared approved.

\*Councilman Zipprich said he was abstaining on the vote regarding the Count Basie Theatre request.

## **PUBLIC COMMENT—Ordinances on First Reading and Resolutions Only**

Mayor Menna opened the Public Comment and asked if anyone would like to speak.

Stephen Hecht—135 Branch Avenue—asked about Resolution 16-90 regarding the West Front Street property and asked how the property became abandoned.

Mayor Menna said it was considered abandoned because there had not been a building on the property for 15 years.

Mr. Hecht said there was no building there because the owner of the property had chosen not to put anything there. He said he did not understand how a property was considered abandoned when it was owned and had had a project proposed and submitted then rejected. He noted the request was then submitted to have it handled as an abandoned.

Mayor Menna said the procedure was permitted by State Statute.

Mr. Hecht asked if it was right.

Mayor Menna said, under the circumstances, it was right because it was permitted and because, from a planning standpoint, it was something that could be considered in that zone. He said it was an issue for the Public Planning direction of the municipality.

Mr. Hecht asked if it was possible for the same project previously proposed to and rejected by the Zoning Board to be proposed and accepted by the Planning Board.

Attorney Cipriani said, under existing ordinances, that project had to be before the Zoning Board. She said assuming the resolution discussed earlier was adopted, it would indicate that the Council felt the property was in an area in need of redevelopment.

Mr. Hecht clarified that that was being done at the request of the owner and was not an independent assessment.

Attorney Cipriani agreed that the owner made the request but she noted the manner in which a property came to be considered for redevelopment could vary. She said it was a lengthy process and reviewed the investigation process. She said, if the Planning Board found that the property met the criteria, it would come back to the Council. She said, if the Council agreed that it was an area in need of redevelopment, nothing would change until they enacted a redevelopment plan ordinance. She said that would then change the zoning requirements for that parcel and the project could then be presented to the Planning Board rather than the Zoning Board.

Mr. Hecht asked if any other properties had made a similar request and asked about a specific property.

Mayor Menna said there had been no other requests but said the property mentioned may fit the definition.

William Meyer—12 Monmouth Street—said he found himself in the unusual position of agreeing with Councilman Zipprich regarding the request. He said it was his impression that the request was not for an area but was for a single lot. He said he understood the applicant had going before the Zoning Board for a density

variance which the Board had denied. He said he did not think that denial was a reason for the Council to call for an investigation by the Planning Board which could have the matter ultimately before the Planning Board which would circumvent the Zoning Board. He said he felt Councilman Zipprich was correct when he said he felt it was an end run to spot zoning. He said he did not think there was anything precluding a vacant lot from being developed except for the motivation of the owner of the property to either develop it or sell it to someone else for development. He said he felt that to create wealth for a particular applicant was an inappropriate use of the redevelopment ordinance. He said he felt one of Red Bank's biggest problems was busting the Zoning density variances and the expenses that came along with that. He discussed the new well being installed and criticized the purchase of new water meters. He said he felt that more development would bring the need for more wells and a higher school expense. He also criticized the comparisons to Long Branch and Asbury Park and said he would not want Red Bank to be like those towns. He offered suggestions to improve the parking situation include building a lot. He again noted the discussion was regarding a single lot and not a section. He also again said he felt it was inappropriate. He criticized projects that had been approved in the past and the increased expense.

Mayor Menna noted there were no school aged children in the new projects.

Mr. Meyer said the potential was there.

Mayor Menna said they were small apartments but acknowledged there could be children in those units at some point.

Ben Forrest—16 Locust Avenue—Commended the Recreation Department for offering evening hours. He also said he found the redevelopment discussion disturbing. He said he would like to see something on the property but said the processes were in place for a reason. He questioned the request for the redevelopment investigation a week after the denial. He said it may be legal but said he thought it was disturbing. He again said the rules were in place for a reason.

Suzanne Viscomi—19 Morford Place—said she was in favor of the project and the creation of rateables.

Anthony Barbera—22 Front Street—said he keeps hearing comments about overdevelopment. He noted his many interests in town as a business and property owner. He said he thought the Council was doing a great job. He said the town was trying to address properties such as the vacant lot and said hopefully they would get to others. He noted other things that needed to be addressed. He said there was a demand for housing and said the Mayor was correct in noting that the project was not for large scale units. He spoke of positive elements of the town and the benefits of the downtown and some of the new businesses. He said the residents would be paying higher taxes if it were not for the downtown. He noted the effect of malls on downtowns and said there were developers that were trying to replicate downtowns in their malls. He said the town needed money to fix the infrastructure and spoke in favor of approving projects.

Tom Cappello—Gaetano's, Wallace Street—said he wanted to speak about the parking moratorium. He said people have paid in the past but said he did not think they should not charge new people coming in. He suggested the town buy the lot being discussed and build a parking garage. He reviewed an article regarding efforts in Asbury Park and the importance of parking. He talked about former retail stores being converted to restaurants and the success of those businesses. He said they could not be successful without parking.

No one else appearing Councilman Zipprich offered a motion to close the public comment portion of the meeting, seconded by Councilwoman Schwabenbauer.

ROLL CALL:

AYES: Burnham, Zipprich, Horgan, Schwabenbauer, Taylor, Whelan

NAYS: None

There being six ayes and no nays, the motion was declared approved.

### **ORDINANCES – First Reading**

None.

### **ORDINANCES – Public Hearing and Final Adoption**

2016-03 Mayor Menna read “An Ordinance Amending and Supplementing Chapter 490, Planning and Development Regulations, Pertaining to Signs. “

Mayor Menna opened the Public Hearing and asked if anyone would like to speak.

Mike Gilson—owner of 10<sup>th</sup> Avenue Burrito—criticized the sign ordinance and said the real issue was parking. He said the changes to the sign ordinance was a waste of time. He questioned if people were really concerned about those issues. He again said parking was the biggest issue facing the town. He also called for building a parking garage and noted actions that had been taken in Asbury Park to address the issue.

Mayor Menna said he expected a proposal from the Parking Committee to be before the Planning Board soon and said he would welcome comments.

Paula Donnelly—The Globe Hotel—said the issue had first come up two years ago and she thought the matter had been dropped.

Mayor Menna agreed that the matter had come up to years ago but said they had put a moratorium on enforcement until the Committee could review the matter and come up with a plan. He said the Council was

now reviewing the plan that had been proposed by the Committee and this was the opportunity for the public to comment on it.

Ms. Donnelly said, in regard to fluorescent signs in windows, they were necessary for her business because, without them, people didn't know she was open. She said when she had received notices two years ago she had shut them off for a day and, as a result, had lost a day's receipts. She noted she had been in business for 35 years and asked if about a provision to grandfather existing businesses.

James Scavone—Director of Red Bank RiverCenter—said he had sent a letter to the Mayor and Council addressing their concerns. He reviewed six areas that he would like the Borough to consider. He said one of the items of concern was the fact that the ordinance did not address any modern technology and asked if something was not addressed in the ordinance, was it not allowed.

Attorney Cipriani said that was correct.

Councilwoman Schwabenbauer asked for clarification on some of the concerns expressed.

Administrator Sickels asked for the date of the letter.

Mr. Scavone said it was dated March 15<sup>th</sup>.

Mr. Sickels asked him to forward it to him and he make sure everyone had received it.

Carolyn Diakon—owner of Resources Real Estate—said they had four offices in various communities and said Red Bank was the biggest problem office because there was no parking. She expanded on that issue. She said Red Bank's residential values had not kept pace with other towns in the area. She said she understood the concern with lighted signs but spoke of the need for signage. She also stressed that parking was key.

No one else appearing, Councilman Zipprich offered a motion to close the public hearing, seconded by Councilwoman Burnham.

ROLL CALL:

AYES: Burnham, Zipprich, Horgan, Schwabenbauer, Taylor, Whelan

NAYS: None

There being six ayes and no nays, the motion was declared approved.

Councilwoman Burnham reviewed the people who had worked on the proposed ordinance and their efforts to simplify. She said they had reviewed the Master Plan and Vision Plan and noted how the town's Code affected the quality of the town. She noted the amount of time spend on the project. She said RiverCenter was included. She said they were aware of the organization's requests and had compromised on many. She there were only two outstanding issues. She also noted that \$18,000 had been spent over three years. She said the Committee had not been asked to throw out the previous ordinance and start over or they would have done that. She also noted that Code Enforcement could not enforce until the amended ordinance was adopted.

Councilman Zipprich thanked Mr. Scavone for his letter. He said he hoped he had gotten the impression that this was still a work in progress. He also noted the time and money that had been spent on the project. He said he believed the ordinance was in need of further review and to include modern technology.

Councilwoman Burnham noted there had been discussion on the number of pages and said Planning Director Carter had provided a summary.

Councilman Taylor asked, if the point was to simplify, why the summary wasn't the ordinance.

Councilwoman Burnham said it did not include all of the regulations.

Councilman Taylor said he thought it was too complicated. He said he thought the point had been to make it readable by the average person.

Councilwoman Burnham reviewed the summary and said the details were in the ordinance.

Councilman Taylor said he understood the expense that had been incurred. He said the study had been done and he didn't think they needed to spend more money. He felt they could move forward with a simpler plan using the information they already had.

Mayor Menna also noted that the Borough now had an in-house planner which they did not have before.

Councilwoman Horgan said she felt that, until RiverCenter's requests were incorporated, they could not go forward. She said she agreed that it had not been simplified. She also noted the in-house planner and said Councilwoman Burnham could be thanked for that.

Councilwoman Burnham said Councilwoman Horgan had been on the Committee and had kept asking for a simplified ordinance but did not offer specifics. She said the issue could go on forever and called for the Council to adopt it as is. She also noted that, if it was not adopted at this meeting, the Code Department would start enforcing the old ordinance which was a lot more restrictive.

Councilman Whelan noted that Councilwoman Burnham had said that the Committee had compromised on six of the eight issues that RiverCenter had presented but Mr. Scavone had just came before the Council to discuss six areas of concern. He said Councilwoman Burnham had made some comments and asked that Mr. Scavone be given a chance to respond.

Mayor Menna said he was going to reopen the public hearing because there were also others that wanted to offer

additional comments.

Councilwoman Burnham reviewed the information that had been distributed.

Councilman Whelan said there were still a significant number of businesses that were not happy. He said he understood you couldn't make everyone happy and asked how many businesses RiverCenter represented.

Mayor Menna said it was 45 percent of the tax base.

Councilman Whelan also told Councilwoman Burnham that she kept mentioning \$18,000 had been spent over three years. He said that didn't mean it was a good use of the money or the time.

Councilwoman Burnham reviewed the work that had been done before Mr. Whelan had been on Council. She asked Mr. Sickels to expand on the reasons for some of the decision.

Mr. Sickels offered details on the reasons certain signs were not allowed.

Councilwoman Schwabenbauer said Councilman Whelan had not been on Council last year but she had. She said she had met with Mr. Scavone last fall and said the list of items he brought up today was the same list he had had last fall. She said the issue had been lingering for quite some time.

Councilwoman Burnham said it had not been lingering and said she had been pushing it and accused the Council of dragging their feet.

Councilwoman Schwabenbauer said no change had been made to it in the last eight months.

Councilman Zipprich disagreed and said he had made a modification at the last meeting.

Councilwoman Burnham said the matter had gone through the Committee the previous September.

Councilwoman Horgan said it had not come out of Committee and said Councilwoman Burnham had not included some of the Committee members for the whole year other than one meeting.

Councilman Zipprich noted that, as new Committee members, he and Councilman Whelan had asked that it be tabled for their review. He noted the work that had been done and said he felt it had been reduced and streamlined. He said it was a work in progress and needed further review.

Mayor Menna reopened the Public Hearing.

William Meyer—12 Monmouth Street—said he heard some of the business had made some suggestions that may be good. He said he also understood the Borough was not currently because they were in limbo. He suggested the business should provide their comments to RiverCenter. He expressed concern over safety issues specifically regarding sandwich board signs.

Mayor Menna noted that Sandwich Board signs were excluded from the sign ordinance and their locations were governed by the Americans with Disabilities Act. He said if Mr. Meyer said issues, it should be reported to Code Enforcement.

No one else appearing, Councilman Zipprich offered a motion to close the public hearing, seconded by Councilwoman Horgan.

Councilwoman Burnham said RiverCenter had an application for sandwich board sign approval and reviewed the criteria that was listed.

Mayor Menna said the Council was not discussing that type of sign at this time.

Administrator Sickels said he understood that the sandwich board sign ordinance had had a sunset clause and it may have expired. He asked the Clerk to check and advise.

Councilman Whelan expressed concern about long time business owners who felt the ordinance would essentially shut their businesses down.

Councilwoman Burnham said those businesses would be grandfathered.

Attorney Cipriani said they would not be grandfathered unless that was specifically stated in the ordinance.

Councilwoman Burnham suggested they add that.

Attorney Cipriani said that would be considered a substantial change.

Councilwoman Burnham offered a motion to adopt the ordinance on final reading, seconded by Councilman Zipprich.

Councilman Zipprich said he felt it needed more work and said he was able to do that with the input of the business community. He confirmed that he was in favor of the ordinance but felt it needed further modifications.

Councilman Whelan said he thought the intent was good but said, if the ordinance was enacted, it could be enforced the next day.

Attorney Cipriani reviewed the Council's options. She said there was currently a motion and a second to adopt the ordinance as written. She said, if it passed, the Council would have the ability in the future to make changes to the ordinance. She said, if the motion did not pass, then the proposed ordinance would die and they would have to introduce a new revised ordinance in the future.

Mayor Menna asked if there could also be a motion to table.

Attorney Cipriani confirmed that they could make a motion to table. She also noted that, if it came back with substantial changes, then that would serve as first reading.

Councilwoman Burnham said they would be costing the tax payers money.

Mayor Menna disagreed. He said the planner was now in-house and the attorney was under retainer so it would not cost any more.

Councilwoman Schwabenbauer said there had been only a minor change and nothing else had happened. She had concerned about adopting it with the intent to change and the amount of time it would take to make those changes.

Mayor Menna noted the publication costs for publishing future amending ordinances.

Councilman Zipprich also noted that it had been sent to the Planning Board and they had sent it back with their approval.

Mayor Menna said the Planning Board had found that it was consistent with Municipal Land Use Law and that it was an enhanced improvement over the existing law. He said that was what they were all saying.

Councilwoman Schwabenbauer said just because the old one was worse was not a reason to find the current one acceptable.

**ROLL CALL:**

AYES: Burnham, Zipprich,

NAYS: Horgan, Schwabenbauer, Taylor, Whelan

There being two ayes and four nays, the motion failed.

### **RESOLUTIONS**

16-76 Mayor Menna read "A Resolution Authorizing Additional Design Work for the Marine Park Storm Rehabilitation and Improvements Project and the Marine Park Pump Station Project."

Administrator noted that the project had originally been bid as two separate contracts and had come back higher than the estimate. He said the engineer suggested some changes and said this resolution would authorize that work. He said it would be rebid as one project for economy of scale.

Councilwoman Schwabenbauer offered a motion to approve the resolution, seconded by Councilman Taylor.

**ROLL CALL:**

AYES: Burnham, Zipprich, Horgan, Schwabenbauer, Taylor, Whelan

NAYS: None

There being six ayes and no nays, the motion was declared approved.

16-77 A Resolution Appointing Andrew Walsh as Construction Board of Appeals Attorney for the Borough of Red Bank.

Mayor Menna noted that Andrew Walsh had been serving as Construction Board of Appeals Attorney for many years. He said the Council had appointed the Borough Attorney to the position which would be a conflict since she would be representing the Borough. He said they needed to fill the position right away.

Councilwoman Schwabenbauer offered a motion to approve the resolution, seconded by Councilwoman Horgan.

**ROLL CALL:**

AYES: Burnham, Zipprich, Horgan, Schwabenbauer, Taylor, Whelan

NAYS: None

There being six ayes and no nays, the motion was declared approved.

Councilman Zipprich asked how this was missed at the beginning of the year.

Attorney Cipriani said, in many other municipalities, the Construction Board of Appeals was at the County level rather than the municipal. She said she had erroneously assumed she was appointed to represent the Borough in front of a County Board.

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Mayor Menna called for a vote on the following resolutions by Consent Agenda:

16-78 A Resolution Authorizing the Release of a Site Improvement Performance Guarantee Posted by Downtown Investors for 89 Broad Street, Blocks 47 and 48, Various Lots.

16-79 A Resolution Authorizing the Release of a Site Improvement Performance Guarantee Posted by Count Basie Theatre for 95 Monmouth Street, Block 43, Lots 4 and 7.

16-80 A Resolution Authorizing the Release of a Site Improvement Performance Guarantee Posted by Big China Corporation for 91-93 Broad Street, Block 47, Lot 15

- 16-81 A Resolution Authorizing the Release of a Site Improvement Performance Guarantee Posted by Lunch Break for Block 96, Lots 1.01, 2.01 and 2.02.
- 16-82 A Resolution Authorizing the Release of a Site Improvement Performance Guarantee Posted by 25 Front, LLC/Nima Nili for 23-25 West Front Street, Block 30.01, Lot 16.
- 16-83 A Resolution Authorizing the Release of a Site Improvement Performance Guarantee Posted by Thompson Memorial Home for 310 Broad Street, Block 99, Lot 15.02.
- 16-84 A Resolution Authorizing the Release of a Site Improvement Performance Guarantee Posted by Survive, LLC, for 76 East Front Street, Block 21, Lots 10 and 11.
- 16-85 A Resolution Authorizing Tax Collector to Complete Application to Participate in Electronic Tax Sale Process.
- 16-86 A Resolution Authorizing the Tax Collector to Charge a Fee Relating to Tax Sale Notice Mailings.
- 16-87 A Resolution in Support of Red Bank RiverCenter’s Application to the New Jersey Department of Community Affairs for a Loan to be Used for Improvements in the District.
- 16-88 A Resolution Authorizing the Release of a Site Improvement Performance Guarantee posted by 18 Broad Street, LLC, for Block 30.01, Lots 26 and 26.01.
- 16-89 A Resolution Authorizing Disposal of Surplus Property.

Councilwoman Schwabenbauer offered a motion to approve the resolutions, seconded by Councilman Taylor.

ROLL CALL:

AYES: Burnham, Zipprich\*, Horgan, Schwabenbauer, Taylor, Whelan

NAYS: None

There being six ayes and no nays, the motion was declared approved.

\*Councilman Zipprich said he would be abstaining on Resolutions 16-78, 16-79, 16-80, 16-84 and 16-88.

16-90 Mayor Menna read, “A Resolution Authorizing and Director the Planning Board to Undertake an Investigation to Determine Whether the Delineated Area of Block 30, Lot 10.01 (55 West Front Street) Satisfies the Criteria for Designation as a Non-Condemnation Redevelopment Area to be Included as Part of the Investigation of the White Street Parking Lot Authorized by Resolution No.16-32.”

Councilman Whelan offered a motion to approve the resolution, seconded by Councilman Taylor.

ROLL CALL:

AYES: Horgan, Schwabenbauer, Taylor, Whelan

NAYS: Burnham, Zipprich

There being four ayes and two nays, the motion was declared approved.

16-91 Mayor Menna read, “A Resolution Amending the 2016 Temporary Appropriations.”

Councilwoman Schwabenbauer offered a motion to approve the resolution, seconded by Councilman Taylor.

ROLL CALL:

AYES: Burnham, Zipprich, Horgan, Schwabenbauer, Taylor, Whelan

NAYS: None

There being six ayes and no nays, the motion was declared approved.

16-92 Mayor Menna read, “A Resolution to Extend the Temporary Suspension of the Parking Deficiency Schedules in the Borough’s Planning and Development Regulations during Economic Emergency.”

Councilman Whelan offered a motion to approve the resolution, seconded by Councilwoman Schwabenbauer.

ROLL CALL:

AYES: Zipprich, Horgan, Schwabenbauer, Taylor, Whelan

NAYS: Burnham

There being five ayes and one nays, the motion was declared approved.

**PROCLAMATIONS**

**PAYMENT OF VOUCHERS**

16-93 Mayor Menna read, “A Resolution for Payment of Bills Amounting to \$3,665,746.64.”

Councilwoman Schwabenbauer offered a motion to approve the resolution, seconded by Councilman Zipprich.

ROLL CALL:

AYES: Burnham, Zipprich, Horgan, Schwabenbauer, Taylor, Whelan

NAYS: None

There being six ayes and no nays, the motion was declared approved.

### **OLD BUSINESS**

None.

### **NEW BUSINESS**

None.

### **AUDIENCE**

Freddie Boynton—365 Shrewsbury Avenue—asked he could meet privately with the Council.

Mayor Menna said he could meet with him but the Council as a whole could not meet with him after the meeting adjourned because that would be a violation of the Open Public Meetings Act.

Mr. Boynton said he had been allowed to meet with the previous Mayor.

Mayor Menna said he would meet with him.

Mr. Boynton said he had met with the entire Council.

Mayor Menna said that could only happen if there was an exclusion to the Open Public Meetings Act.

Attorney Cipriani confirmed that the entire Council could only meet with him in an Executive Session if it was regarding one of the topics authorized by the Open Public Meetings Act.

Mr. Boynton again said it had happened previously.

Mayor Menna said he may be correct and it may have under one of the applicable exceptions. He said he would discuss it with him after the meeting.

Mr. Boynton asked if he could meet with the Mayor and Mr. Sickels.

Mayor Menna said he could.

Mr. Boynton handed a letter to the Administrator and Mr. Sickels and said he would not be discussing the contents of the letter. He also said he saw Borough staff cleaning catch basins downtown but said he didn't see any on the west side. He said the one on Herbert Street was in need of cleaning. He also criticized the number of potholes. He also criticized the customer service in the Public Works office.

William Meyer—12 Monmouth Street—said the Borough's rateables had skyrocketed but the taxes had skyrocketed also. He said the Council should not have approved the new rateables. He said the days of "Dead Bank" had coincided with the recession. He said homes had been foreclosed during that recession but he said the private sector took advantage of the deals and the town came back. Regarding parking, he said private sector properties could become parking garages. He also said the eastside lots were underutilized and said people were looking for convenience. He said he did not think a garage would solve that problem.

Freddie Boynton—365 Shrewsbury Avenue—said he forgot to follow up on a previous question about a Borough vehicle being used to go to a doctor. He said he checked with several other towns and said they did not allow an employee to use a vehicle to go to a doctor whether it was job related for not.

### **EXECUTIVE SESSION**

None.

### **ADJOURNMENT**

Councilman Zipprich offered a motion to close executive session meeting, seconded by Councilwoman Schwabenbauer.

### **ROLL CALL:**

AYES: Burnham, Zipprich, Horgan, Schwabenbauer, Taylor, Whelan

NAYS: None

There being six ayes and no nays, the motion was declared approved.

Respectfully submitted,

Pamela Borghi