

BOROUGH OF BERNARDSVILLE
Mayor & Borough Council Meeting Minutes
September 13, 2021

Mayor Canose called this meeting to order at 7:00 p.m. remotely via Zoom. Present were Council Members John Donahue, Jeff Hammond, Matthew Marino, Chad McQueen, and Christine Zamarra. Also present were John Pidgeon, Borough Attorney, Tom Czerniecki, Administrator, and Anthony Suriano, Borough Clerk. Council Member Jena McCredie was absent.

STATEMENT OF PRESIDING OFFICER

Notice of this meeting was provided to the Bernardsville News, Courier News and the Star Ledger, filed with the Municipal Clerk and posted on the Municipal Bulletin Board on December 24, 2020.

PLEDGE OF ALLEGIANCE

PRESENTATIONS - None

OPEN SESSION

Mayor Canose opened the meeting to the public.

Olivia Manning, resident of Orchard Street and Executive Director of Downtown Bernardsville, said Bernardsville has been approved as Main Street New Jersey. She said Downtown Bernardsville is shifting their energy to focus a little more on what's involved with Main Street New Jersey including new grants that are coming up which will require a lot more of their attention. She said as a result, they are going to postpone some of their fall events, specifically the car show that will be moved to the spring. The Trunk Or Treat won't be done as in the past but they may be partnering with the Recreation Department to do something for Halloween. The ice skating event is also going to be postpone until next year. She said this will be discussed at their community meeting on October 6th if anyone has any more questions. Mr. McQueen said the Planning Board is starting deliberation about center designation for Bernardsville and asked Ms. Manning if she foresees any issues with their current center designation. Ms. Manning said she does not have enough information to give an accurate answer on what that center designation entails but does not feel there would be any issues. Mr. McQueen said it sounds like it'll be complementary to what Downtown Bernardsville is doing.

Vince Bisogno, attorney representing Essex Building LLC, said he requested the Planning Board waive the application fee for his client and the reason for that is because about three years ago they filed an application with the Board of Adjustment where they sought permission to construct a multi-family dwelling on property located on the corner of Essex Avenue and Claremont Road. He said they had about ten meetings before the Board of Adjustment and then heard about the possible change in the zoning ordinance. The ordinance changed making their use a permitted use, and in the meantime they paid an application fee to the Board of Adjustment

of approximately \$6,900. He said when the zoning ordinance was changed, he contacted the Planning Board attorney and the Board Of Adjustment attorney and wrote a letter explaining that the matter should remain before the Board Of Adjustment because of the fact that there were certain conditions imposed in 1979 by the previous Board that had to be changed and normally the procedure is that you stay before the same Board that imposed the conditions. He said they had a different opinion and they transferred their case to the Planning Board. He said he was in touch with Mr. Mottola and he informed him that there was a new application fee of an additional \$6,700. Mr. Bisogno said he thought it was unfair because of the fact that this is basically the same application just being transferred from one Board to another, and also it's the same item. He said they already paid a substantial application fee and thought in fairness it would be inappropriate to charge another application fee of \$700 in order for us to have the application heard by the Planning Board. Mayor Canose thanked Mr. Bisogno for his comments and said our attorney has recommended that we discuss this matter in executive session.

Kerry Haselton, Mine Brook Road, said she wanted to check with council and see what our plans might be as a borough for availing ourselves of the opportunity of some of the development grants for open space that are available through the county. She encouraged council to pursue getting a plan together for one project that they feel would be appropriate for us to apply for a grant through the county so that when the money is reallocated next year, we'll be in the queue for consideration. Bob Markowick, Recreation Director, said he has been working with the Principal Planner from Somerset County on a grant application and he submitted it earlier this week and it will be before the Board in November. It was noted by Mayor Canose and Mr. Markowick that the grant was for pickleball courts and an adult fitness workout area outside of the Polo Grounds. Mr. Hammond asked about the dollar amount that these grants cover in terms of the range of funding. Ms. Haselton said they range from about \$300,000 to \$600,000 depending on the scope of the project, and they are shovel ready projects. She said these are substantial grants that would help us with what we've been trying to do through the Recreation Steering Committee and Recreation Committee. She said after working with Brandstetter Carroll, these would bump us ahead in terms of things that we want to see done quickly for our community. Mr. Markowick said the amount we asked for is in the \$500,000 range.

Hearing no further comments, Mayor Canose closed the open session.

ORDINANCES (Public Hearing)

Mayor Canose opened the public hearing on Ordinance #2021-1890, **CONCERNING SPECIAL EVENTS AND AMENDING CHAPTER 4 OF THE BOROUGH CODE ENTITLED "GENERAL LICENSING"**. Hearing no comments from the public, Mayor Canose closed the public hearing. Mr. Marino moved to pass this ordinance on final reading and adopt as published. Ms. Zamarra seconded and the motion was approved by the following roll call vote. Mr. Donahue, Mr. Hammond, Mr. Marino, Mr. McQueen and Ms. Zamarra voted yes.

Mr. Pidgeon said that Ordinance #2021-1891, **ESTABLISHING SMALL ACCESSORY MECHANICAL EQUIPMENT SETBACKS IN RESIDENTIAL ZONES AND SUPPLEMENTING AND AMENDING ARTICLE 12 OF THE BOROUGH LAND DEVELOPMENT REGULATIONS ENTITLED “ZONING”**, had suggested revisions by the Zoning Officer and that it was noted that this ordinance will be reintroduced with said revisions as Ordinance #2021-1893 later in the meeting. No motion was made on Ordinance #2021-1891.

Mayor Canose opened the public hearing on Ordinance #2021-1892, **AN ORDINANCE AMENDING SALARY ORDINANCE #2021-1882**. Hearing no comments from the public, Mayor Canose closed the public hearing. Mr. Hammond moved to pass this ordinance on final reading and adopt as published. Mr. McQueen seconded and the motion was approved by the following roll call vote. Mr. Donahue, Mr. Hammond, Mr. Marino, Mr. McQueen and Ms. Zamarra voted yes.

ORDINANCES (Introduction)

Mr. McQueen moved that Ordinance #2021-1893, **ESTABLISHING SMALL ACCESSORY MECHANICAL EQUIPMENT SETBACKS IN RESIDENTIAL ZONES AND SUPPLEMENTING AND AMENDING ARTICLE 12 OF THE BOROUGH LAND DEVELOPMENT REGULATIONS ENTITLED “ZONING”**, be introduced by title, passed on first reading, published according to law, and that a public hearing be scheduled for a meeting beginning at 7:00 p.m., Monday, September 27, 2021. Ms. Zamarra seconded and the motion was approved with five yes votes.

Mr. Hammond moved that Ordinance #2021-1894, **AUTHORIZING AND ENCOURAGING ELECTRIC VEHICLE SUPPLY/SERVICE EQUIPMENT (EVSE) & MAKE-READY PARKING SPACES AND SUPPLEMENTING AND AMENDING ARTICLE 12 OF THE BOROUGH LAND USE REGULATIONS ENTITLED “ZONING”**, be introduced by title, passed on first reading, published according to law, and that a public hearing be scheduled for a meeting beginning at 7:00 p.m., Tuesday, October 12, 2021. Mr. Marino seconded and the motion was approved with five yes votes.

Mr. McQueen moved that Ordinance #2021-1895, **CONCERNING LAND DEVELOPMENT APPLICATION PROCEDURES AND AMENDING ARTICLE 2 OF THE BOROUGH LAND DEVELOPMENT CODE ENTITLED “PLANNING BOARD” AND ARTICLE 3 ENTITLED “ZONING BOARD OF ADJUSTMENT”**, be introduced by title, passed on first reading, published according to law, and that a public hearing be scheduled for a meeting beginning at 7:00 p.m., Monday, September 27, 2021. Mr. Hammond seconded and the motion was approved with five yes votes.

RESOLUTIONS

- #21-170A AUTHORIZING PAYMENT OF BILLS (as of 8/24/21)**
- #21-170B AUTHORIZING PAYMENT OF BILLS (after 8/24/21)**
- #21-171 GOVERNING BODY CERTIFICATION OF THE ANNUAL AUDIT (2020)**
- #21-172 AUTHORIZING PURCHASE OF A 2021 FORD DIESEL MASONRY DUMP TRUCK THROUGH MORRIS COUNTY CO-OP**
- #21-173 AWARDING A CONTRACT FOR NEW FIRE TRUCK
2021 FERRARA INFERNO HEAVY DUTY PUMPER
THROUGH THE HOUSTON GALVESTON AREA COUNCIL
COOPERATIVE (HGAC)**
- #21-174 CANCELING THE PROSPECTIVE ASSESSMENT AS PUT
FORTH IN ORDINANCE #03-1308 FOR THE IMPROVEMENT OF
THE DOWNTOWN AREA**
- #21-175 AUTHORIZING THE MAYOR AND CLERK TO SIGN A
PROFESSIONAL SERVICES CONTRACT WITH APPRAISAL
SYSTEMS, INC.**
- #21-176 AUTHORIZING SUBMISSION OF THE 2021 GRANT
APPLICATION FOR THE SOMERSET COUNTY MUNICIPAL
ALLIANCE AND YOUTH SERVICES COMMISSION**
- #21-177 REQUESTING APPROVAL OF ITEMS OF REVENUE AND
APPROPRIATIONS PER NJSA 40A:4-87**
- #21-178 AMENDING THE PROFESSIONAL SERVICES CONTRACT
WITH MID ATLANTIC ENGINEERING PARTNERS**
- #21-179 APPROVING PLACE-TO-PLACE TRANSFER OF A.B.C.
LICENSE #1803-44-008-011**
- #21-180 AWARDING A CONTRACT FOR THE MILLING AND PAVING
OF VARIOUS ROADS WITHIN THE BOROUGH OF
BERNARDSVILLE THROUGH THE MORRIS COUNTY CO-OP**
- #21-181 AUTHORIZING REFUND OF RENTAL REGISTRATION FEE
FOR 10 BODNAR STREET**

- #21-182 AMENDING THE PROFESSIONAL SERVICES CONTRACT
WITH PARKER MCCAY FOR LEGAL SERVICES**
- #21-183 APPOINTING TRAVIS NICKERSON AS DRIVER/LABORER IN
THE PUBLIC WORKS DEPARTMENT**
- #21-184 AUTHORIZING CHANGE ORDER #1 TO THE CONTRACT
FOR CHESTNUT AVENUE IMPROVEMENTS**
- #21-185 AUTHORIZATION OF TAX REFUND**
- #21-186 APPOINTING A PART TIME SCHOOL CROSSING GUARD**
- #21-187 AMENDING RESOLUTION #21-164 REQUESTING APPROVAL
OF ITEMS OF REVENUE AND APPROPRIATIONS PER NJSA
40A:4-87 SOMERSET COUNTY DEPARTMENT OF HUMAN
SERVICES MUNICIPAL ALLIANCE GRANT – FY2021/2022**
- #21-188 TERMINATION OF THE FLEXIBLE BENEFITS PLAN**
- #21-189 AUTHORIZING THE MAYOR TO SIGN THE 2020 GRANT
APPLICATION FOR SOMERSET HILLS MUNICIPAL
ALLIANCE & YOUTH SERVICES COMMISSION**
- #21-190 MEMORIALIZING COUNCIL OPPOSITION TO STATUTE
REQUIRING ORDINANCE #2021-1889**
- #21-191 AUTHORIZING REFUND OF STORMWATER ESCROW
ACCOUNT 04-280-7033-0100 FOR MR. BENSON T. ROSS FOR 20
PEACHCROFT ROAD**
- #21-192 AUTHORIZING REFUND OF POLICE ESCROW FEES**
- #21-193 AUTHORIZING THE MAYOR AND CLERK TO SIGN A
PROFESSIONAL SERVICES CONTRACT WITH CARLIN
APPRAISAL SERVICE**

Mr. McQueen moved to adopt Resolutions #21-170A to #21-193. Mr. Marino seconded and the motion was approved by the following roll call vote. Mr. Donahue, Mr. Hammond, Mr. Marino, Mr. McQueen, and Ms. Zamarra voted yes.

ITEMS OF BUSINESS

Mayor's Update

Mayor Canose said on August 26th, she and Mr. Hammond attended a RideWise webinar on EV chargers. Mayor Canose met with Michael Leanza on August 26th, who is a senior at Bernard's High School and applying to college as a business major. Mr. Leanza was asked to reflect on issues in his community and their business implications and he interviewed Mayor Canose. On September 4th, Mayor Canose visited the shelter that we had at Bernards High School. She thanked our OEM and EMS staff, CERT volunteers, and Red Cross. She said the county was very grateful for the help that we provided and 190 people were processed through the shelter. September 5th was the I Love Bernardsville and 5k Walk that was done by Downtown Bernardsville. On September 9th, Tom Czerniecki, Johanna Wissinger, John Macdowall and Mayor Canose met with John Stuckey from Volta and they are setting up a meeting with Mr. Stuckey and Brenda Curnin of Bernardsville Centre. Mayor Canose said once those meetings take place the Public Works Committee will review. There was a Housing Committee meeting on September 9th and there was also a Downtown Bernardsville meeting on that date as well. At their meeting, Downtown Bernardsville talked about what is required for being a Main Street. Mayor Canose participated in the service of remembrance at the Library on September 11th. Also on September 11th, Mayor Canose attended the first games for the youth football program on the turf field, which haven't been played on in five years, so they were very excited to be playing on the turf field. The county call this past week was about storm recovery and they answered 13,600 calls in 24 hours and did 620 water rescues. She said Somerset County lost five lives and had 83 families temporarily placed. There were 10 inspection teams that went out and closed 24 bridges, with eight being reopened so far. One of those bridges was the borough's on lower Mount Harmony Road and the county has begun to work on it. Mayor Canose said on September 14th, she will have a meeting with Alan Zalkin to talk about the energy aggregation program and Mr. Hammond and Mr. Macdowall will also attend.

Mr. Hammond added that OEM did a great job at the shelter. He said there is a need for more CERT volunteers and if anyone wants to be part of the Community Emergency Response Team (CERT) they should reach out to either Lieutenant Remian or Sergeant Tim Richard at the Police Department for an application.

Administrator's Report

Mr. Czerniecki thanked all the residents that stepped forward and answered the call for assistance when we put out the need for it due to the storm. They provided some support for pets and animals which was a wonderful response. He said on the agenda tonight, Resolution #21-177 was for a grant that Chief Valentine and his team are working on to continue to build up our resources so we can respond to those types of emergencies and to build up the CERT team. He said there's a lot of work that goes into being able to respond the way we did and council, in particular, should take pride in having built that up over the years. He said the NJ American Water Company water line construction project should be wrapped up at the end of this week.

Mr. Czerniecki said the pool season is over and we finished at about \$85,000 over what we brought in 2020. He said that is not a great measure, and in looking at 2019 which was the last normal year, we came in at about \$40,000 over from that, which is really great progress. Mr. McQueen thanked Mr. Markowick for his efforts. Mr. Czerniecki said department heads are going to get preliminary budget forms this week and the first project we're working on is to develop a detailed budget manual which would be very useful for newly elected officials. He said at the next council meeting there will be a resolution to consider a variety of changes to the Personnel Policies and Procedures Manual, and the majority of the changes are coming from recent state legislation, and our Joint Insurance Fund (JIF) wants us to update the manual to reflect those laws. There will be annual mandatory training for supervisors and managers in early to mid-October with respect to workplace conduct matters.

Recreation Committee Comments on Recreation/Open Space Master Plan

Bob Markowick, Recreation Director, discussed the Recreation Committee's recommendations about the Recreation & Open Space Master Plan. He said the Committee noted that some 2021 investments will require multiyear investments such as the Polo Grounds, pool, and trail development/expansion. Mr. Markowick discussed the Committee's recommendations in four areas as follows:

For immediate quick hits: Maintenance/enhancement of existing Borough trails; Safety – Rose Bowl bench, dugouts, electric panel, steps; Claremont fence repair; Light upgrades at basketball courts with management system for on/off; Pool accessories – umbrellas, benches, gazebo; Signage for Parks; Bike Racks.

For Passive Recreation and Open Space Properties: Master Plan for Trails/Connected Walkways - 5-10 year comprehensive trails and walks connection planning; Complete Polo ground walking path; Trail/Park Map signage; 271 Mine Brook – basic entry and parking area – gravel with QP base; 251 Claremont (Peter's Tract) – Parking expansion; 251 Claremont (Peter's Tract) Hiking Trail maintenance/development/expansion; 271 Mine Brook– Hiking and Biking trail maintenance/development/expansion.

For Active Recreation: Master Plan – Polo complex comprehensive plan; Full complex drainage with walking path/extension of large baseball field to official size; Exercise station/center on walking path; Lighting for turf field; Park facility – restrooms/kitchen snack shack/meeting space; Pickleball project; Claremont and Rose Bowl Field resurfacing.

For the Pool: Master Plan for Pool complex; Sets up 2021-2022 - 2023 investment; Infrastructure updating/upgrade – pumps, drains, valves, building; Pool remodel; Expand footprint for activity/events, gazebo.

Mr. Marino said the Recreation Committee went over each individual item in detail and thanked Committee Chairperson Ted Dolan, Recreation Director Bob Markowick, and the rest of the

Committee for the attention to this matter. He said while some items may seem redundant, they complement each other. Mr. Hammond and Mr. McQueen said the safety items should be done as soon as possible. Mr. McQueen said we should get the monies appropriated for the short-term items that are safety related and bring the list of financial considerations to the Finance Committee for discussion. Mayor Canose asked if we issued the RFP for a Parks and Recreation Engineer. Mr. Czerniecki said we have. Mayor Canose said once that person is in place we can start moving forward on prioritizing and working out of phasing. Mr. Czerniecki said council authorized the RFP about a month ago and it shouldn't be that far away. Mayor Canose thanked Mr. Markowick and the Recreation Committee for their outstanding job. Mr. McQueen asked if we can get some of these items appropriated at our next meeting because some of them seem to be very clear and we can move forward on them. Mr. Czerniecki said he thinks we can do that.

Group Accident Policy

Mr. McQueen moved to renew the Borough's Group Accident Policy for a three year period, from September 17, 2021 to September 17, 2024, payable annually. Mr. Hammond seconded and the motion was approved with five yes votes.

Request by Essex Building, LLC for a Waiver of Ordinance-Required Application Fee

This matter was moved to Closed Session.

Draft of an Amendment to the Shade Tree Ordinance

Council consent was to remove the last sentence from Section 13-6b from the draft ordinance stating, "*Removal of any tree with a DBH of greater than ten (10) inches regardless of its condition, is prohibited without first obtaining a tree removal permit in accordance with the Chapter*". With that change, Ms. Zamarra moved that **Ordinance #2021-1896, AN ORDINANCE AMENDING THE BOROUGH TREE PROTECTION ORDINANCE AND SUPPLEMENTING AND AMENDING CHAPTER 13 OF THE BOROUGH CODE**, be introduced by title, passed on first reading, published according to law, and that a public hearing be scheduled for a meeting beginning at 7:00 p.m., Monday, September 27, 2021. Mr. Marino seconded and the motion was approved with five yes votes.

Environmental Commission Chair, Statement Regarding Stormwater Management and Hurricane Ida

Johanna Wissinger, Environmental Commission (EC) Chairperson, submitted a statement to the Mayor and Council from the EC. She said she received quite a few emails and phone calls regarding questions about green infrastructure and storm drywalls. She said to summarize, their three main concepts are that they presented a brief history of the progress that Bernardsville has made with installing our rain gardens, which is at present, the most popular stormwater treatment that we have. Second, it provides a statement of our pursuits and the standards that we believe

are important for us to support. Third, is that expresses intent and goals of managing stormwater. She underscored the first goal of wanting to continue and intensify our efforts to educate and facilitate rain gardens and other green infrastructure which are best management practices for stormwater of residential properties. This would be done through public information and grant applications. She said additionally, rain gardens help with pollinators and if lawns are subsequently being reduced, it also reduces chemicals that wind up in the water and on neighboring properties. She said the EC would like to provide information about Rutgers cooperative extension, their water resources program, and apply for grants for engineering design, green infrastructure, and managing roadway drainage. In conclusion, she said this outreach is also an opportunity for the EC to thank council for their support. She said we have a good start with rain gardens and want to continue to pursue this. Mr. Marino referred to pictures sent by Ms. Wissinger and noted a very striking difference in the one with a clear day with no heavy rain on July 30th, 2021, compared to one with heavy rain on June 8th, 2021. He said pictures such as these are good for raising awareness. Mayor Canose suggested the EC consider doing a program at the Library for the public to illustrate how easy it is to install a rain garden. Mr. McQueen asked if there is a way that we can incorporate rain gardens and other types of storm water mitigation. Ms. Wissinger said they already are doing that and whenever they go before the Board of Adjustment, they always think of it in conjunction with other things such as a berm. Mr. McQueen asked if there is a more permanent solution that we can add to our ordinances to incorporate things like rain gardens that may be more aesthetically pleasing to allow homeowners to do things in a more liberal way. Ms. Wissinger said yes it's inclusive in an ordinance that was passed in March that the NJDEP requested every municipality pass. Mr. Hammond said the stormwater ordinance that we recently passed was a compromise but thought it was never meant to be a final document and it's an iterative process as the recent storm has emphasized the need to do this. He said there's a lot of opportunities for what people can do both on their individual properties as well as to benefit the borough in general. He said this is something that we're going to be revisiting periodically. Mr. McQueen said he believes the only official mitigation strategy listed in our current ordinance is a solution for a permanent stormwater well and maybe there's room to talk about other strategies that may be more beneficial than the issue that's caused us some recent trouble. Ms. Wissinger asked EC member, Kathy Redling, if the ordinance that the NJDEP requested all the municipalities to adopt also includes a list of green infrastructure stormwater regulations. Ms. Redling said that it states to utilize best management practices which include green infrastructure, listing bioswales, rain gardens, etc. Mr. McQueen said he thought we were even more restrictive than that and locally we have to go to a formal infrastructure and he would look into that.

Correspondence - None

Unfinished Business- None

New Business- None

CLOSED SESSION

Mr. Marino moved to adjourn to an executive session to consider Attorney/Client Privilege and Pending Litigation – Doherty and that the time when and circumstances under which the matter can be disclosed to the public is when it (they) are finally resolved. Mr. Hammond seconded and the motion was passed with five yes votes.

ADJOURNMENT

The meeting was adjourned at 8:50 p.m.
