

BOROUGH OF BERNARDSVILLE
Mayor & Borough Council Meeting Minutes
May 23, 2022

Mayor Mary Jane Canose called this meeting to order at 7:00 p.m. Present were Council Members Jay Ambelang, Diane Greenfield, Chad McQueen, and Al Ribeiro. Also present were John Pidgeon, Borough Attorney, Tom Czerniecki, Administrator, and Anthony Suriano, Borough Clerk. Council Members Jena McCredie and Christine Zamarra were absent.

STATEMENT OF PRESIDING OFFICER

Notice of this meeting was provided to the Bernardsville News and Courier News, filed with the Municipal Clerk and posted on the Municipal Bulletin Board on December 27, 2021.

PLEDGE OF ALLEGIANCE

PRESENTATIONS

Mr. McQueen read the following statement:

I wanted to address several concerns raised by the public regarding the ongoing downtown redevelopment project. Specifically, regarding the process, our progress, and questions of transparency.

The Quimby Lane revitalization project began in the Spring of 2017. Since that time, local volunteers have donated thousands of hours guiding the development of redevelopment plans and the vision for this project, in particular the Downtown Redevelopment Committee, made up of Mayor appointed members of our community with expertise in development. Additionally, there were multiple workshops and hearings that solicited the input of the general public before any formal plans were adopted through which hundreds of residents participated. This included Council and planning board meetings and discussions as to whether the area met the requirements as an area in need of redevelopment, Borough zoning, visions for the area, and the ultimate selection of the developer, Advance Realty. All of these important documents and decisions are publicly available at <https://www.bernardsvilleboro.org/government/downtown-redevelopment> and review by all residents is encouraged. Importantly, they have all been discussed and decided in public forums with full public disclosure and opportunities for public comment.

Currently, our selected developer is in a planning and property acquisition phase for the project. This means that the developer approaches local owners to acquire the desired Quimby lots and creates a future plan. This is predicated on current owners in this designated area negotiating in good faith and recognizing fair market value, rather than placing additional burden on our community. As part of our contract with Advance, we are expecting these concept plans soon. It is important for the public to understand that these plans, like all other decisions, will be discussed in public and will allow for full public discourse. Also to clarify, it is not taxpayer

dollars which are being spent to advance this project, but rather the developer, who will earn their return once the project is complete and in use.

It is important for everyone to understand what the borough does and does not have influence over. One primary tool we possess is our local zoning regulations governing the downtown. Over a period of 18 months, Council and our planning board diligently worked to improve our zoning laws with a goal to make them more conducive to downtown growth and commerce. One example of this was improving our outdoor dining ordinances. Links to those documents are here <https://www.bernardsvilleboro.org/government/downtown-redevelopment>.

The State of New Jersey also has a tool where municipalities can designate an area in need of redevelopment. Through this tool, municipalities have enhanced authority to direct redevelopment of already developed (but declining) areas toward a vision consistent with smart growth principles and away from allowable but not always desirable sprawl. Our downtown, like many others, has been trending toward sprawl and would continue to move in that direction if we did not take advantage of the redevelopment option. Specifically, redevelopment provides the Borough with: 1.) Greater control over the quality and appropriateness of design and development; 2.) The ability to identify a developer who has the expertise and experience to make the vision plan a reality; and 3.) The ability to construct tax agreements to best provide short- and long-term financial benefits to the Borough. We have two areas in Bernardsville with this designation - the Quimby village area described above, and the Audi dealership. Lastly, I would like to address the Palmer property and the recent petition started by the proprietors at the Bagel Bin. First, I want to applaud our residents who have voiced their opinion on the future of this property, particularly in support of one of our small businesses. Concern for the future and viability of our small businesses is certainly shared by Council. However, importantly, this is distinct and separate from Quimby Lane. As everyone has been made aware, the Palmers sold their property interest to Advance Realty in a private transaction, which the borough has no jurisdiction over. The Council wants to thank the Palmers for decades of public service to this town and investment in our community, and recognizes it is their right to choose their own path. Once learning of the transaction and that Advanced Realty was the buyer, the Borough Council started the conversation to see if that area would also qualify for redevelopment designation. This was done for a very specific purpose. First and foremost, if the area qualifies, it would allow for the creation of additional retail space. This net addition of retail space would serve as a relocation space for existing businesses and improve our local economy. Also importantly, if the area qualifies, it gives our Borough additional control over the quality and appearance of what is built, promotes a more unified and cohesive design for the downtown, and a more orderly approach to redevelopment to the area including assessing traffic patterns and flow around that area. As anyone that has followed the Borough Council meetings can attest, we are leading the charge to get our Borough into a better fiscal place where we can pay directly for needed improvements instead of saddling the Borough with debt it cannot afford to repay without significant tax increases.

To create this area of redevelopment designation, there are very specific criteria that must be met. This analysis will be done by our planning board consisting of dedicated volunteer professionals who have donated countless hours of their time over the past year. Our planning board does diligent and great work, those volunteers should be commended, not criticized.

As mentioned before, as a Borough, we can create the conditions for successful commerce and business through zoning, and in certain circumstances, area of redevelopment designations. What we cannot do is interfere with private enterprise, how businesses are run, and/or relationships and agreements between tenants and property owners. The Borough also cannot influence how individual businesses are run by their owners, including decisions made by these owners as to whether to enter into or accept lease agreements. This is not the proper role of municipal government.

It is the desire of all members of the Bernardsville Council to see every local business succeed. This is one of our highest priorities when making decisions. This is recently evident by more businesses expanding their footprint inside and out, such as the Claremont Tavern, Bistro 73, the Coffee Shop, and the Station. A successful downtown full of commerce and successful business owners is our goal, and we are working towards that goal with the Quimby redevelopment project. If you have any questions, we are always happy to answer.

APPROVAL OF MINUTES

Mr. McQueen moved approval of minutes from April 25, 2022 and May 9, 2022. Ms. Greenfield seconded and the motion was approved with four yes votes.

OPEN SESSION

Mayor Canose opened the meeting to the public.

Olivia Manning, thanked Mr. McQueen for sharing his statement on redevelopment with the public. She said it's very important that everyone understands that redevelopment, as scary as it is, is not so bad and things are going to be okay. She said change is really hard but in the end people will be happy and others will not. She said she hopes that we can continue being relatively transparent, which was a theme of the Main Street Conference last week that she attended with Assistant Recreation Director, Leah Horowitz. Ms. Manning said something else that's really important that she has been hearing a lot of is the idea of the low-income housing aspect. She said when people hear that they think it's not going to be nice, but she is confident in whatever the final plans are, that low-income housing doesn't mean we are not going to be a nice town. She said she hopes the public understands that whatever is going to happen it's going to do well for our town and it's going to be a good move for what we do in our community. She said we just have to work together as much as we can to make sure that everyone is aware of what's going on. She said if people are afraid of the change, her door is always open and people can talk to her. She said she is sure members of the council and the Mayor are also there if people need to talk to somebody.

Roberta Ruschmann, Mine Brook Road and member of the Shade Tree Committee, said she received a link to the last council meeting with discussion on the pond. She said she listened to it last night and it was very difficult to hear and understand the engineer from Rippled Waters and she wanted to share her own thoughts. She said the current pond was a gift to the town. The land was bought by Richard Lindaberry in 1916 and it was the old Bunn property of the edge of the village. She said he developed it with the pond as a principal feature for the pleasure and the

use of his fellow townspeople. It was the site of frequent band concerts, games, and ice skating in those days and now it belongs to the Borough. The Bunn Mill is the Borough Hall. She said her concern is like Chief Valentine's of the fact and firsthand knowledge of the flooding experiences. The dam had been equipped years ago with a function to help it control flooding downstream and she said she believes it's no longer functional for any type of flood control due to the silt that's accumulated in the past years. She said as far as she understands it, currently whenever it rains there's major flooding downstream and there's also that risk of the bottleneck through the underpass of Old Quarry Road. She said the bridge is really in bad shape and somebody should take a look at that. The problem occurs even before the water gets onto the farm. She said she was wondering whether the water that comes down off the Bernards mountain on the other side of the track and pond has been calculated and figured into the flood equation. She said along the railroad there was built an underpass because it had put the railroad up so that the water would come. She said when it rains the water comes through there unbelievably from up on the mountain so somebody should take a look at that. She said she doesn't know if the areas closest to the firehouse are going to stay wet and swampy because of the water table there. She asked if instead of harnessing the harmful silt and removing it, is it general practice these days just to keep spreading it downstream? She asked if ponds are all generally detrimental? She asked about what happens to the wildlife that thrives in ponds? She said ponds that have been dredged are usually deeper and the water is colder, and asked if it is harmful for the cows to drink the water with the sediment in it. She asked about the scouring process that was mentioned. She said she was interested to know about the environmental concerns that are being relieved by removing the pond. She said trout are not able to go upstream but there are trap ladders that solve that. She said getting rid of the pond is not going to get rid of the Canadian geese as they're all along the stream. She said she doesn't know if the pond is deep enough as it could have remained cold on the bottom. She said her main concern is what happens downstream. Mayor Canose asked Ms. Ruschmann to send her questions directly to Mr. Czerniecki and he will pass them on to the engineer from Rippled Waters to answer them. It was decided to have Mr. Czerniecki ask Mary Paist-Goldman, Rippled Waters engineer, to attend the next council meeting on June 13th when this topic will be on the agenda for discussion. Ms. Greenfield said it was discussed by the Public Safety Committee and the Public Works Committee. She said Public Works discussed doing a parallel track and trying to see what the hazard mitigation is for the problems that exist now and do a parallel check with either removal or reconstruction so we're not holding up the dam issue, but we're dealing with them both at the same time on parallel tracks. Ms. Greenfield said they also discussed FEMA grants that are possible for us to get to take care of the mitigation problem.

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

ORDINANCES (Public Hearing)

Mayor Canose opened the public hearing on Ordinance #2022-1915, **SUPPLEMENTING AND AMENDING CHAPTER 2 OF THE BOROUGH CODE ENTITLED "ADMINISTRATION" TO ALLOW COUNCIL MEMBERS TO ATTEND TWO MEETINGS PER YEAR REMOTELY AND UPDATING LANGUAGE.** Hearing no comments or questions, Mayor Canose closed the public hearing. Mr. Ribeiro 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. Ambelang, Ms. Greenfield, Mr. McQueen, and Mr. Ribeiro voted yes.

Mayor Canose opened the public hearing on Ordinance #2022-1917, **APPROPRIATING \$660,000 FROM THE CAPITAL IMPROVEMENT FUND FOR VARIOUS EQUIPMENT AS LISTED IN THE 2022 MUNICIPAL BUDGET**. Hearing no comments or questions, Mayor Canose closed the public hearing. Mr. Ribeiro said that there would be no additional charges to the borough for this equipment. Mr. McQueen moved to pass this ordinance on final reading and adopt as published. Ms. Greenfield seconded and the motion was approved by the following roll call vote. Mr. Ambelang, Ms. Greenfield, Mr. McQueen, and Mr. Ribeiro voted yes.

ORDINANCES (Introduction)

Mr. Ambelang moved that Ordinance #2022-1918, **SUPPLEMENTING AND AMENDING THE BOROUGH LAND USE ORDINANCE TO AMEND THE AH-3 ZONE REQUIREMENTS AND ADDING TWO ADDITIONAL AFFORDABLE HOUSING ZONES**, 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, June 27, 2022. Mr. McQueen seconded. The motion to introduce was approved with four yes votes.

Ms. Greenfield moved that Ordinance #2022-1919, **CONCERNING THE PROCEDURES FOR SUBMISSION AND APPROVAL OF FINAL SITE PLAN AND SUBDIVISION PLATS AND SUPPLEMENTING AND AMENDING ARTICLE 9 ENTITLED “SITE PLAN REVIEW” AND ARTICLE 10 ENTITLED “SUBDIVISION” OF THE BOROUGH LAND DEVELOPMENT REGULATIONS**, 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, June 27, 2022. Mr. McQueen seconded. The motion to introduce was approved with four yes votes.

RESOLUTIONS

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| #22-118 | AUTHORIZING PAYMENT OF BILLS |
| #22-119 | AUTHORIZING REFUND OF ESCROW FEES – BOA APPLICATION #18-11, 9 STEVENS STREET, BERNARDSVILLE, NJ, TRICK |
| #22-120 | AUTHORIZING REFUNDS OF POLICE ESCROW FEES |
| #22-121 | AUTHORIZING MAYOR TO SIGN A GRANT APPLICATION FOR AN ELECTRIC VEHICLE AND CHARGER |

**#22-122 AUTHORIZING REFUND OF ESCROW FEES - PB
APPLICATION #SP-213 (80-100 Morristown Road),
BERNARDSVILLE CENTRE**

**#22-123 AUTHORIZING LIEN AGAINST BLOCK 35, LOT 4, 107
CHESTNUT AVENUE, FOR COST OF PROPERTY
MAINTENANCE PERFORMED BY BOROUGH EMPLOYEES**

Regarding Resolution #22-123, Mr. Ribeiro said the Public Works Department will do the cleanup.

Mr. McQueen moved to adopt Resolutions #22-118 to #22-123. Ms. Greenfield seconded and the motion was approved by the following roll call vote. Mr. Ambelang, Ms. Greenfield, Mr. McQueen, and Mr. Ribeiro voted yes.

COUNCIL COMMITTEE REPORTS

Mayor's Update, Mayor Canose said the Memorial Day Parade will be held on Monday, May 30th. It will begin at Bernards High School at 10:00am. She said we had the past two years without a Memorial Day Parade due to Covid so people are really excited to have the parade this year. Mayor Canose thanked Leslie Roberson for letting us know that the bank is increasing our interest rate which will bring us an extra \$5,000 in interest this year. She said it's nowhere near what we used to get but we're moving in the right direction.

Administrator's Report, Mr. Czerniecki said the Construction & Zoning Office are now virtual until after Memorial Day as they have had a Covid outbreak. They are working at home and relying on past experience on getting work done. Mr. Czerniecki said we had 206 customers take advantage of our household cleanup day on May 14th, which was a big success. He said our e-waste event on May 21st was also very successful. The municipal pool will open next week. Mr. Czerniecki thanked Public Works for removing all the old trash cans in the downtown area and installing the new ones. We are also going to put logo designs on those cans. He said we had an issue with cell phone coverage at the Polo Grounds and the Police Department has reached out to Verizon. Chief Valentine said he heard from them today and they apparently found the problem and are working to get it corrected and repaired. Mr. Czerniecki said today we hosted Police supervisors from around the area for a Risk Management seminar.

Mr. McQueen moved to accept the monthly reports as listed on the agenda. Ms. Greenfield seconded and the motion was approved with four yes votes.

COUNCIL COMMITTEE REPORTS

Public Safety Committee, Chief Valentine said the committee discussed a variety of issues and spent a lot of time talking about the dam remediation and the concerns that Ms. Ruschmann had earlier in the meeting. Mayor Canose asked if they talked about the short-term housing

ordinance. Ms. Greenfield said they discussed it and Chief Valentine said he hasn't had any complaints about the safety aspect so it was not a safety issue. They decided that it was a solution in search of a problem and since it's not a problem at this time, there was no action to be taken. Ms. Greenfield said if at a later date it becomes a problem, then we could introduce it. Chief Valentine said the committee also addressed the issue with noise complaints. He said we have five different trash transfer companies that are operating in town at different times of day and night. He said it's hard to isolate exactly who's responsible for each time as they've all been consolidated into one company. He said the Police Department has been aggressively working during the night to track down the different drivers and the different trucks that are in the area. They are not always the same people on the same night and they're not familiar with our ordinances, but we've got them pretty well educated now and have talked to quite a few of the drivers. He said he feels they will be quieter going forward.

Finance Committee, Mr. McQueen said the committee has not met since the adoption of the budget, but they need to meet and discuss the financing of whichever remedy happens regarding the dam project. He said a meeting will be scheduled in June.

Organization Development and Personnel Committee, Mr. Ambelang said the committee will be meeting next week.

Engineering, Technology, and Public Works Committee, Ms. Greenfield said the committee met on May 17th and discussed the dam remediation presentations and were in favor of waiting until the June council meeting to select a course of action. They wanted to give the residents another opportunity to comment or ask questions regarding the dam presentations. She said the video of the dam presentations can be viewed on the borough website as part of the May 9th council meeting. Regarding the Mountain Top Road drainage issue, the existing storm basin at the corner of Overleigh and Mountain Top has been lowered to allow the basin to collect runoff more efficiently. Pricing is being obtained to potentially install approximately 400 feet of 12-inch perforated pipe and inlets to better manage the runoff. Regarding sidewalks of Old Army Road and lower Childs Road, the committee anticipates reviewing sidewalk concept plans and estimates at its June 21st Public Works Committee meeting. The final list of roads for 2022 mill and paves will be available at the June 13th council meeting. Work on the pickleball court is underway and utility poles needed to be moved. Two of the poles are owned by the borough so a new underground electrical connection will be run from Seney Drive to the pool snack shack to allow for the removal of the poles and elimination of the overhead wires. We will upgrade service to the snack shack from the current 100 amp service to 200 amp service to accommodate future upgrades. Ms. Greenfield said after over a year of waiting, we received the GP-11 and GP-17 permits for the Polo Grounds Walking Path and it can now begin the final engineering based on the conditions outlined in the permits. Regarding the Bernards Avenue reconstruction project, Ms. Greenfield said it is one of the top priorities of the borough to ensure that the construction is done with the highest quality and in a manner which will ensure the lasting result that the Bernards Avenue neighborhood residents deserve. She said given this, after much discussion and vetting all receivable outcomes, the Public Works Committee has reached the conclusion that the Bernards Avenue reconstruction project schedule should be revised. The revised schedule would begin with the bidding of the project in November with an anticipated start date of early spring. Due to the delay in the receipt of grant funds which we are using for

this project, we would have been starting the bidding process late in the season. We have concerns around supply chain issues and contractor availability and given these factors we want to avoid excessive costs and the possibility of winter construction which can yield an inferior product. In addition, the borough is presently entering the engineering of the second phase of the area's roadway improvement project, referred to as the Bernards Avenue neighborhood project. The potential to bid these projects at the same time in November exists and could potentially lead to additional cost savings for both projects and a unified comprehensive plan to enhance the local community. From a Public Works perspective, improving the infrastructure of the entire Bernards Avenue area remains the highest priority and we want to ensure the work is done right and that we are mindful of taxpayer dollars. Therefore, to ensure the best possible outcome for this project, the Public Works Committee suggests the council agree to revise this schedule. Mr. McQueen said he agrees but his only concern is a financial one if the dam remediation falls into that same calendar year. He said we can analyze it to see its effect. Ms. Greenfield said it would be really great to do the projects together. There were no objections from council on a revised schedule of the Bernards Avenue reconstruction project.

OTHER COMMITTEE REPORTS

Municipal Attorney Report, there were no questions or comments from council on Mr. Pidgeon's report.

Land Use Committee, Mayor Canose said the committee has not met and will be meeting in early June.

Environmental Commission, Mr. Ambelang said the commission met and discussed the dam project. They had some concerns about if the other side of the dam, which is closest to the railroad tracks, would still remain wet.

Planning Board, Mr. McQueen said the Board met and had to remove an item on the agenda as the Zoom capacity is one hundred and there were over one hundred attendees for that meeting. He said Community In Crisis' hearing will be coming up.

Housing/Zoning/Property Maintenance Compliance Committee, Ms. Greenfield said the committee met on May 20th and discussed enforcement of the sign ordinance. They are continuing to work on the potential perimeter fence ordinance along with a revamp of the commercial vehicle parking and residential zones ordinance.

Board of Health, Mr. Ribeiro said the Board met talking about the current Covid rates that have been rising in the area. There was a question from a Board member about if the schools are considering masking again. It was noted that masking requirements can only be done by the governor. Mr. Ribeiro said there may be individual districts at times that consider whether to mask or not but that would be the decision of the School Board. The Health Department is going to restart their monthly newsletter, Health Matters. Regarding Covid rates, the Health Department feels that everything has been manageable so far and no changes to any of the schedules on testing, vaccines, etc. Mr. Ribeiro said the Board of Health meetings are going to stay remote for now and they will consider potential live meetings in the future. The next

meeting is on July 18. There was a Covid vaccination clinic at the Firehouse held last weekend.

Recreation Committee, Mayor Canose said there is an upcoming meeting with Suburban Engineering and there may be an update on that at the next council meeting. Mr. McQueen said it should probably be presented to the Recreation Committee first, and then Public Works and Finance.

ITEMS OF BUSINESS

Temporary Outdoor Dining

Mr. Pidgeon will prepare an ordinance for the next council meeting to amend the current ordinance regarding temporary outdoor dining.

Request from Homeowners at 41 Douglass Avenue

Mr. Ribeiro moved to approve a request by the homeowner at 41 Douglass Avenue to occupy their existing home while a new home is being built, subject to the following conditions:

- Duration – 18 months (if they are unable to complete construction in 18 months because of circumstances beyond their control, additional time can be requested);
- No certificate of occupancy will be issued until the existing home is demolished;
- The new home must comply with all zoning and Construction Code requirements.

Mr. Ambelang seconded and the motion was approved with four yes votes.

Dam Removal- Stream Restoration

Mr. Ribeiro said the media has done a great job of covering the conversations around the dam project. He said council is proceeding as to potentially have on the next agenda a motion to remove the dam and reestablish the stream. He said there were great points today made by Ms. Ruschmann and council purposely moved this topic to a future meeting so that there's more time for the public to come and make further comments. He said they recognize as a council why they feel that this is the right thing to do from an environmental and fiscal standpoint and it will change the face of the town. He said there might be other considerations as well, such as how it would affect flooding and debris. He suggested the media continue to cover this topic and make sure that residents know that at the next meeting we are going to propose removing the dam. He said if residents feel differently about that or have further questions, they should make sure to comment so that their voice is heard because it's a significant change and one that it's not really our choice as we're kind of being forced upon it by the state and by the changing environmental regulations. He suggested residents watch the May 9th council meeting presentation by Rippled Waters and Ferriero Engineering. The PowerPoint presentations from that meeting can be viewed on the Borough website. Mr. Czerniecki said he would meet with small groups of residents for those who had specific questions about the dam project. Council agreed to have

Mr. Czerniecki meet with small groups of residents. Mr. Czerniecki said he will ask Mary Paist-Goldman of Rippled Waters to attend the next meeting. Mr. McQueen said it would be a good idea to follow the same pattern of having small groups of residents meet with Mr. Czerniecki when we get preliminary plans from Advanced Realty.

Correspondence - Hardship Commuter Parking Decal Request

Mayor Canose said she would reach out to St. Bernard's Church as they have a community fund that assists people who have hardships. The decal fee would then be paid by the St. Bernard's Church community fund.

Unfinished Business - None

New Business - None

OPEN SESSION

Mayor Canose opened the meeting to the public.

Roberta Ruschmann, Mine Brook Road, asked when the ballots will be arriving. It was noted that sample ballots have not been mailed yet and vote by mail ballots have been mailed to those who requested them. Information on voting is listed on the Clerk's page of the Borough website.

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

CLOSED SESSION - None

ADJOURNMENT

The meeting was adjourned at 8:25pm.
