

**BOROUGH OF BERNARDSVILLE**  
**Mayor & Borough Council Meeting Minutes**  
**July 11, 2022**

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

**APPROVAL OF MINUTES**

Ms. Zamarra moved approval of minutes from May 23, 2022. Mr. Ribeiro seconded and the motion was approved with six yes votes.

**PRESENTATIONS**

Announcement of Proclamation for Lifeguard Recognition, Mayor Canose said one of our lifeguards at the Bernardsville Municipal Pool did an amazing rescue on June 6<sup>th</sup> and we will be recognizing him on June 29<sup>th</sup> with a ceremony at the pool. She said it was only his second time on duty and he did an amazing job.

**OPEN SESSION**

Mayor Canose opened the meeting to the public.

Michael Lipari, from the law firm of Mandelbaum Barrett and counsel to Mine Brook Properties, said the following statement:

*It is my understanding that the Mayor and Council are seeking to extend the redevelopment agreement with the designated redeveloper Advanced Realty LLC. On behalf of Mine Brook Properties, I'd like to state our formal objection to any extension of time as the redeveloper has not met its obligations under the existing agreement and has not justified any reason for an extension. Most notably the redevelopers failed to gain control of properties required to pursuant to section 2.04 of the agreement and they have not provided the borough with adequate assurances that it has the financial stability to proceed as redevelopers required by section 2.05 of the agreement. This, in addition to several other things that we have not been able to obtain certain information in order to determine whether or not the redeveloper has actually satisfied other sections of the agreement, but I think it's most notably important to point out that there has*

*been a petition that has over two thousand signatures from Bernardsville residents opposing the agreement and we believe it is in the best interest of Bernardsville and its citizens to terminate its agreement at this time with Advance Realty ar at columbia llc and certainly not to provide it with an extension which is not justified any reasons to do so.*

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

### **ORDINANCES (Public Hearing)**

Mayor Canose continued the public hearing from June 27, 2022 on Ordinance #2022-1921, **CONCERNING OUTDOOR DINING AND AMENDING ARTICLE 12 OF THE BOROUGH CODE ENTITLED “ZONING”**. Hearing no comments or questions, Mayor Canose closed the public hearing. Mr. Pidgeon said the recommendation from the Planning Board was that this ordinance was not inconsistent with Master Plan. He said they made one non-binding recommendation to define the term temporary as used in temporary outdoor facility. He suggested leaving the ordinance as is. Mayor Canose said it would be more effective if we did it on a case by case basis. She said we could consider the word seasonal because a lot of it is depending on the weather, but seasonal could be anytime as we could have nice days in December. She said temporary is probably the best solution for now. Ms. Zamarra moved to pass this ordinance on final reading and adopt as published. Ms. McCredie seconded and the motion was approved by the following roll call vote. Ms. Greenfield, Ms. McCredie, Mr. McQueen, Mr. Ribeiro, and Ms. Zamarra voted yes.

Mayor Canose opened the public hearing on Ordinance #2022-1923, **AN ORDINANCE REZONING PROPERTY LOCATED AT 5 SENEY DRIVE (BLOCK 41, LOT 2) FROM D-CL TO R-5 AND SUPPLEMENTING AND AMENDING SECTION LD 12-2.2 OF THE BOROUGH CODE ENTITLED “ZONING MAP”**. Vincent Paragano, property owner of 5 Seney Drive, thanked council for hearing this ordinance. Hearing no further comments or questions, Mayor Canose closed the public hearing. Mr. Ribeiro moved to pass this ordinance on final reading and adopt as published. Ms. McCredie seconded and the motion was approved by the following roll call vote. Ms. Greenfield, Ms. McCredie, Mr. McQueen, Mr. Ribeiro, and Ms. Zamarra voted yes.

Mayor Canose opened the public hearing on Ordinance #2022-1924, **BOND ORDINANCE PROVIDING FOR THE ACQUISITION OF PROPERTY LOCATED AT 65 MORRISTOWN ROAD IN AND BY THE BOROUGH OF BERNARDSVILLE, IN THE COUNTY OF SOMERSET, NEW JERSEY, APPROPRIATING \$1,500,000 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$1,430,000 BONDS OR NOTES OF THE BOROUGH FOR FINANCING SUCH APPROPRIATION**. Hearing no comments or questions, Mayor Canose closed the public hearing. Mr. Greenfield moved to pass this ordinance on final reading and adopt as published. Mr. Ribeiro seconded and the motion was approved by the following roll call vote. Ms. Greenfield, Ms. McCredie, Mr. McQueen, and Mr. Ribeiro voted yes. Ms. Zamarra abstained.

Regarding Ordinance #2020-1925, Mayor Canose said this is a type of a blanket bond ordinance and as each project comes before the council, they each have to be approved separately. She said anything that's within that bond will have a public hearing and everyone will know exactly how that money is being spent on our recreation projects. Mr. McQueen said the intent is not to use the bond if we don't have to. He said we believe we have funds in-house to pay for most of it but this will be a mechanism for us to fund things in an expeditious way.

Mayor Canose opened the public hearing on Ordinance #2022-1925, **BOND ORDINANCE PROVIDING FOR IMPROVEMENTS TO OPEN SPACE PROPERTIES IN AND BY THE BOROUGH OF BERNARDSVILLE, IN THE COUNTY OF SOMERSET, NEW JERSEY, APPROPRIATING \$4,000,000 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$3,800,000 BONDS OR NOTES OF THE BOROUGH FOR FINANCING SUCH APPROPRIATION.** Aaron Duff, Crestview Drive, thanked Mr. Czerniecki for discussing this ordinance with him. He said his concern about the appropriation was that he saw the ordinance had the potential of crowding out maybe other investments, recreation investments that might come before the council between now and the time that these projects are completed. He said Mr. Czerniecki was able to explain the way the open space fund works and assured that with the anticipated revenue stream that the open space tax provides on a year over year basis, there wouldn't really be any financial impediment to other recreation spending, if appropriate, during that time. Regarding the projects that are contained in the appropriation ordinance, Mr. Duff said he thinks it should be one of our engineer's top priorities to address the driveway at 271 Mine Brook Road for the entrance and egress issues. He suggested if somebody from the borough could reach out to the engineers for some preliminary ideas about potential design options to get the private residence a dedicated driveway and to get the park a dedicated ingress/egress. He said he thinks it would be worthwhile to get the ball rolling on that project if it is going to be a long process. Mayor Canose said Bob Brightly had done some initial drawings for how that could be done, so maybe he could connect with Suburban Engineering. She said Mr. Brightly invested a lot of time in the design and it didn't move forward because we were still debating how we were going to do the whole project.

John Donahue, South Street, said the bridal trail in the back, with each heavy storm, is starting to collapse into the river a little bit. He said it's something that will need to be addressed, possibly with NJDEP. He said to also look at a couple of large trees that were flagged. The trees are hollowed out and are along the area where people would walk. Mr. Czerniecki said we are going to organize a walk through concept trail that was marked out.

Hearing further comments or questions, Mayor Canose closed the public hearing. Ms. McCredie 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. Ms. Greenfield, Ms. McCredie, Mr. McQueen, and Mr. Ribeiro voted yes. Ms. Zamarra abstained.

Mayor Canose opened the public hearing on Ordinance #2022-1926, **CONCERNING FINES FOR ORDINANCE VIOLATIONS AND AMENDING ARTICLE 2 OF THE BOROUGH CODE ENTITLED "ADMINISTRATION" AND ARTICLE 16 OF THE BOROUGH LAND DEVELOPMENT REGULATIONS ENTITLED "VIOLATIONS AND PENALTIES".** 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. Ms. Zamarra seconded and the motion was approved by the following roll call vote. Ms. Greenfield, Ms. McCredie, Mr. McQueen, Mr. Ribeiro, and Ms. Zamarra voted yes.

Mayor Canose opened the public hearing on Ordinance #2022-1927, **AN ORDINANCE AUTHORIZING THE ACQUISITION OF REAL PROPERTY, LOCATED AT 65 MORRISTOWN ROAD AND IDENTIFIED AS BLOCK 124, LOT 13, FOR PUBLIC PURPOSES.** 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. Ms. Zamarra seconded and the motion was approved by the following roll call vote. Ms. Greenfield, Ms. McCredie, Mr. McQueen, Mr. Ribeiro, and Ms. Zamarra voted yes.

### **ORDINANCES (Introduction)**

Ms. Greenfield moved that Ordinance #2022-1928, **APPROPRIATING THE SUM OF \$72,000 FOR THE VARIOUS IMPROVEMENTS TO THE WASTEWATER TREATMENT PLANT FACILITIES,** 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, August 8, 2022. Ms. Zamarra seconded. The motion to introduce was approved with five yes votes.

Ms. Greenfield moved that Ordinance #2022-1929, **APPROPRIATING THE SUM OF \$35,000 FOR THE PILL HILL PUMP STATION VALVE AND PUMP IMPELLER REPLACEMENT PROJECT,** 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, August 8, 2022. Ms. Zamarra seconded. The motion to introduce was approved with five yes votes.

### **RESOLUTIONS**

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| <b>#22-155</b> | <b>AUTHORIZING PAYMENT OF BILLS</b>  |
| <b>#22-156</b> | <b>AUTHORIZING REFUND OF A ZONING APPLICATION FEE FOR APPLICATION 1679 FOR 85- 4 MOUNTAIN TOP ROAD</b>                               |
| <b>#22-157</b> | <b>MEMORIALIZING THE APPOINTMENT OF JASON ALBANESE AS A PART-TIME SUBSTITUTE DISPATCHER</b>  |
| <b>#22-158</b> | <b>RESOLUTION TO SUPPORT PROVIDING \$10 MILLION IN ANNUAL STATE FUNDING TO SUPPORT LOCAL PUBLIC HEALTH MEASURES</b>                  |
| <b>#22-159</b> | <b>AUTHORIZING REFUND OF STORMWATER ESCROW ACCOUNT #04-280-7039-0100 TO BARNA BUILDING CONTRACTORS INC. FOR 46-4 POST KENNEL RD.</b> |

**#22-160**

**AUTHORIZING THE MAYOR TO SIGN THE 2021 GRANT  
APPLICATION FOR SOMERSET HILLS MUNICIPAL  
ALLIANCE & YOUTH SERVICES COMMISSION**

Regarding #22-158, Mr. Ribeiro said this topic will be discussed at next week's Board of Health meeting. Council agreed to hold this resolution until after Board of Health discussion.

Ms. McCredie moved to adopt Resolutions #22-155 to #22-160, except #22-158. Ms. Zamarra seconded and the motion was approved by the following roll call vote. Ms. Greenfield, Ms. McCredie, Mr. McQueen, Mr. Ribeiro, and Ms. Zamarra voted yes.

**COUNCIL COMMITTEE REPORTS**

**Mayor's Update,** Mayor Canose said there was a Cultural Arts Committee meeting on June 2<sup>nd</sup> to review the Faces of Bernardsville Art Show. The committee started discussion and collaboration with the Recreation Department and Downtown Bernardsville to start preparing for our 100th anniversary in 2024. On July 6<sup>th</sup>, Mayor Canose attended the pool karaoke with Mr. T's band. She said the Recreation Department is doing some great programs at the pool. The nice thing about those kind of programs is that they are open to everyone and not just members. She said it's really nice that the movies and the musical gatherings are free to everybody. Mayor Canose attended Coffee With A Cop this past Saturday at the Farmer's Market. She said they were promoting National Night Out on August 2<sup>nd</sup>, which is a really great program that happens all across the country on August 2<sup>nd</sup> to make people aware of all the police and safety measures that go on in town. She said they are going to have a helicopter, canines from the County Sheriff's Office, free hot dogs, and the Minuteman will have a food truck. Mayor Canose said she stopped at the vaccination clinic at the Firehouse on Saturday and they had a steady lineup of people coming mainly for boosters. She thanked the county for coming to Bernardsville. Mayor Canose said that beginning on July 16<sup>th</sup>, there is a new three-digit hotline that the state is rolling out. It's 988 and is a mental health crisis and suicide prevention hotline that will be available 24/7 for calls, texts, and chats. She said it's a great thing to publicize and is going to be a great resource for the growing mental health crisis. Mayor Canose said she would like to respond to a misleading letter to the editor that was sent to the Bernardsville News by one of the property owners in the Quimby Lane area, Mr. Chris Herold. She said she was very surprised to see this letter from someone who she has engaged with several times. Mayor Canose read the following statement.

*Mr. Czerniecki and I met with Mr. Herold and his partner last month. After hearing his concerns about the project we informed him that we would share his concerns with the council, which we did at the next meeting during executive session. The council agreed to reinforce that eminent domain will not be used for this project as it has maintained all along and further to completely remove any option of eminent domain from the developers agreement. I issued a statement to that effect at our last meeting and I emailed that to the businesses and the Bernardsville News published it in last week's newspaper. Mr. Herold attempts to point to language in the original agreement from 2020 on eminent domain. This is standard language*

*and redevelopment agreements detailing the possible tools that boroughs can use to advance projects. What he doesn't share is that on page one of the agreement, it very clearly states that the Quimby Lane project is designated a non-condemnation area in need of redevelopment, meaning eminent domain will not be used. Any resident or business can read it for themselves. It is a public document available on the borough website, developed in public over multiple years with public comment periods. To change this or use eminent domain even in an extreme case, the developer would need to go back to the council and make the request, triggering an open process with public input in order for the council to make that decision. As I stated, the council has agreed to remove all language regarding eminent domain from the agreement. Since the developer's agreement is a legal document, there is a process to follow in order to amend the contract. We are engaged in that process with the developer and our redevelopment attorney and I explained that to Mr. Herold in a follow-up email. I'd also like to dispute Mr. Herold's comment about the council scheming behind closed doors. Fortunately, our residents and the vast majority of business owners know that accusation is patently false. This council has been more than transparent over multiple years through every step of this process. We have engaged the public in numerous forums and the January 2020 agreement had public hearings before being passed unanimously. I would encourage any of the other business owners to be equally open about their concerns. Both the Administrator and I would be happy to meet with them. I do realize that projects such as revitalizing our downtown can be stressful and we will continue to work hard to engage everyone in the community (residents, businesses, and property owners) in the process. But rather than spread incorrect information, I would remind the affected parties such as Mr. Herold, that this is about the future of our community and they have a responsibility to our community to engage in a professional and honest manner. As we have continued to reinforce, no property owner in the redevelopment area is being forced to participate in the process and we will continue to ensure this process is transparent, open, and that the public is fully engaged every step of the way, so that everyone who wants a part in the future of our downtown has that opportunity. Thank you.*

Mr. McQueen left the meeting at 7:40pm.

**Administrator's Report,** Mr. Czerniecki said he wanted to acknowledge Aaron Duff for coming in and meeting with him and learn about ordinances, planning, and Green Acres rules. He said it was time well spent with Mr. Duff. Mr. Czerniecki said we received about \$30,000 more in state aid than anticipated for this year. He said we received a letter from the NJDCA that we were awarded \$45,000 to pay for our cost in implementing our shared services agreement for Fire Prevention with Bernards Township. Mayor Canose said the bond is using the annual tax which means we're not adding any new tax so there is no cost to the residents for all the improvements that we are going to be able to do.

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

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

## **COUNCIL COMMITTEE REPORTS**

**Public Safety Committee**, Ms. McCredie said the committee is meeting this Thursday.

**Finance Committee**, Mayor Canose said the committee is meeting next week.

**Organization Development and Personnel Committee**, Ms. Zamarra said the committee is meeting on July 21<sup>st</sup>.

**Engineering, Technology, and Public Works Committee**, Ms. Greenfield said the Rutgers co-op exchange update was received and reviewed on environmental bioswales. She said Locust Drive is a viable option and the cost of construction is now being explored. The new anticipated start date for milling is July 18<sup>th</sup>, paving is July 25<sup>th</sup>, and resident notifications were mailed. There is ongoing work at the pickleball court as drainage is now being installed. A newly discovered and badly deteriorated water line to the snack shack is to be replaced. The Chestnut Avenue paving project from last year is finally closed out as we've received the final grant payment from NJDOT. Mayor Canose said when she attended Coffee With A Cop, a lot of people were asking about Bernards Avenue. She said we need to say something publicly as to why that's being delayed. It was noted it's a complete reconstruction including infrastructure and drainage and not just a mill and pave. Mr. Czerniecki will work with Doug Walker on a letter to send to the residents.

## **OTHER COMMITTEE REPORTS**

**Land Use Committee**, Mayor Canose said the committee has not met.

**HPAC**, Ms. Greenfield said the committee met on June 28<sup>th</sup> and discussed Downtown Bernardsville's Museum In The Streets project. They talked about Dunster Squibb with updates regarding the water damage that they had earlier in the year. They discussed Dan Lincoln's review of Board of Adjustment and Planning Board applications.

**Mayor's Ad Hoc Trails Committee**, Ms. Greenfield said the committee met on July 2<sup>nd</sup> and discussed their mission, how they would operate, and set goals for July, August, and September. The committee walked Peter's Tract Trail to review the marker placement done by Ms. Greenfield, Kerry Haselton and Aaron Duff on the previous day.

**Open Space**, Ms. Greenfield said the committee did not meet.

**Housing/Zoning/Property Maintenance Compliance Committee**, Ms. Greenfield said the committee did not meet.

## **ITEMS OF BUSINESS**

### **Correspondence – Hardship Exemption, 60 Prospect Street**

**Hardship Exemption, 60 Prospect Street.** Mayor Canose said a letter was received from the owners of 60 Prospect Street requesting a hardship exemption for oil to gas conversion. It was noted that the letter stated the owners spoke to John Macdowall and that only a 3x5 area of asphalt would be impacted. Ms. Zamarra moved to approve the hardship exemption for 60 Prospect Street. Ms. Greenfield seconded and the motion was approved with four yes votes.

### **Correspondence - 2022 Bike MS Country Challenge**

Mayor Canose said we received a letter that the annual 2022 Bike MS Country Challenge will take place on September 17<sup>th</sup> and will pass through Bernardsville.

### **Unfinished Business**

**Crosswalk from Train Station to Bistro 73,** Mayor Canose said she has a letter to sign to be sent to NJDOT asking to be included in the next round of funding for the crosswalk. However, she said she heard that NJDOT was working on it and have it all marked out, so she will check on that before sending the letter.

### **New Business** - None

## **OPEN SESSION**

Mayor Canose opened the meeting to the public.

Johanna Wissinger, Washington Corner Road and Environmental Commission, suggested that the Trails Committee would incorporate some way to enhance natural science education. She said there are all different ways to make that valuable. She said we have the two watersheds and we might be able to get a naturalist to go through and highlight some points. Regarding the audio of the meeting, Ms. Wissinger said the side table where Mr. Pidgeon and Mr. Czerniecki are sitting is not able to be heard as clearly. Mayor Canose said maybe the Audubon might be interested in providing the education aspect.

Maria Nadel, Mine Brook Properties, said no one wants to sell, move, or be relocated. Ms. Nadel asked why the property owners can't work with the town to do whatever they want them to do. She said if the borough gives a three-year extension and it would upset all the businesses, property owners, the businesses' employees and their families. She said we'd have to be waiting for three years to see what's going to happen and the redeveloper can at any time come back and ask for an amendment to get eminent domain or condemnation. She said there are so many people upset about this.

Tara Vitolo, Claremont Road and business owner at 13 Mine Brook Road, asked why the redeveloper's extension is three years. She said if they weren't able to obtain the properties in the amount of time they were given, why are we giving another three years, which seems like such a large amount of time. She said as a business owner and someone who is potentially going to own her store, it's stalling buying her store because in the end there could be a resolution



made to the plan to invoke eminent domain. She said she knows the Post Office lease is up in three years and commented if that has something to do with it in order to get enough square footage. She said the reason she's asking is because it's the future of her business and she's been told that she can relocate into the Palmer Building, but is that on her dime to reopen? She said if she chooses to come back, the rent is obviously going to be higher and she already pays high enough rent. She said other stores would have the same issue and it would be all on their dimes. She commented that there are no business owners on the Downtown Committee for redevelopment and they should have a say as they have ideas as well. She said her main question is about the three year extension given to the redeveloper being that it's such a long time and what is going to change in three years. Mayor Canose said that's a good question and we have not agreed to any time period at the moment. She said it's still a negotiated time limit that we can talk about. Ms. Vitolo said she hopes that there's more meetings and that maybe there's a way to get the business owners more involved. Mayor Canose said with this process we do have business owners on the committee. She said we don't have Quimby business owners because it's almost a conflict of interest to be involved in what the borrower is negotiating. Ms. Vitolo said Westfield did a beautiful redevelopment but all the smaller mom and pop stores are no longer there and replaced with larger stores because they are the only ones who can afford the rent. She said if she were to move her business to the Palmer Building while there's a lot of construction downtown, she is going to lose business because no one wants to shop when there's construction. She said she hopes these are other things council really considers when they do redevelopment. Mayor Canose said anything from any agreement, whether it be any aspect of change, has to come back to the council. She said she really appreciates the fact that we are hearing from the businesses now, which we haven't in the past, and we're always open to meetings or sitting down with people and hearing what their concerns are. She said the initial stages of this were a lot different as it was a different climate, a whole different business climate when we started about three or four year ago, so there's a lot to reconsider at this point.

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

### **CLOSED SESSION**

It was moved to adjourn to an executive session to consider Attorney Client Privilege and that the time when and circumstances under which the matter can be disclosed to the public is when it is finally resolved. The motion was seconded and approved with four yes votes.

### **ADJOURNMENT**

The meeting was adjourned at 8:35pm.

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