

**BOROUGH OF BERNARDSVILLE**  
**Mayor & Borough Council Meeting Minutes**  
**September 12, 2022**

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

**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 27, 2021.

**PLEDGE OF ALLEGIANCE**

**PRESENTATIONS**

**Bernardsville Law Enforcement Foundation Introduction**, Chris Schmidt, Vice President of the Bernardsville Law Enforcement Foundation, said they are seeking to provide support to local law enforcement by offering educational training, equipment, and technology that will help reduce crime, increase officer safety, and improve community relations. He said their goal is to help law enforcement officers protect and serve residents of Bernardsville. He said there's a budget that's stretched thinner every year and while we have somewhat sufficient funds to keep everything going on a regular basis, there's always things that are wish list that we'd like to have but the budget doesn't allow or can't afford. Mr. Schmidt said they have come together as a group of local residents with the purpose of raising money to get some of these wish list items. Chief Valentine gave thanks for the incredible amount of support for the Police Department in Bernardsville. He said our local community is always behind the department and always willing to step up and help. Mr. Czerniecki said an interesting or exciting thing is that some families in the borough have foundations or trusts that can only give money to nonprofit organizations. He said one family stepped forward, asked to remain anonymous, and gave the Foundation a check of about six thousand dollars in order to have state of the art defibrillators ready to go when it comes time to replace the existing ones. Mr. Schmidt said there was a conference on how to handle school shootings and it was money well spent. He said everyone will be happy to know that our officers are trained in that area.

**OPEN SESSION**

Mayor Canose opened the meeting to the public.

Laurine Gilbert, Mendham Road, said she came to support the Bagel Bin regarding their concerns about the potential redevelopment for the Bagel Bin area and Palmer properties. She said her concern about the Bagel Bin and much of the redevelopment proposals in Bernardsville is that they seem to be an agenda looking to redevelop Bernardsville without enough input from

the people who are part of the process, whether they're business people who own the properties, work in the properties, or live in the community. She said she would like to make sure that as we move forward we do not use things like eminent domain or property in need of redevelopment as a very large hammer for things that might otherwise be addressed by using existing borough standards to make sure that properties are kept up.

Steve Tobin, Ambar Place, gave an example of a scenario investing a lot of time and effort to get a beach house on the ocean in an ideal spot and not long after, that town's council says the beach is closed and they are going to be setting up condominiums on the beach. He said that's cutting off the reason the beach house was bought for because of its great access to the ocean. He said he understands what's going on in Bernardsville as there's talk of excessive condominiums apartments being put up. He said he has nothing against condominiums or apartments but doesn't want it to take away from the distinctive character of what Bernardsville is and always has been. He said if someone wants big buildings like that, they can go to Summit or Morristown. He said one of the distinctive things about Bernardsville is that it has a small town feeling to it and that's one of the biggest points of attraction to this area. He referenced a book titled *Among The Blue Hills Bernardsville History* which he said is actually written by a number of prominent Bernardsville residents. He read an excerpt from the book.

Sheryl Riley, Childs Road, said she is a lifelong resident of Bernardsville. She said the Planning Board was put together by the Governing Body and they did research and decided against this. She said she doesn't understand why council doesn't take their advice. She said she is trying to understand what council is trying to control. She said she would like to understand if these are all going to be apartments, the people in those apartments rent. She said she is not 100 percent sure, but the gentleman who owns the building probably doesn't pay taxes. She said all those kids from the apartments are going to go to our schools, which is wonderful, but they're not paying any taxes. She asked who is paying for those children and why is council following a developer down this road because when talking to the majority of people in town, nobody really wants this. She said it would also worsen traffic. She said she wants Bernardsville to remain Bernardsville. She said she would like a solid reason why we are doing this.

Neil Schetelick, Mine Avenue, said he looked over the AH3 and all the other overlay zones on Mount Airy Road. He said putting 26 units on a fairly large road is understandable for COAH obligation. He said putting in 12 units on Mount Airy is problematic for traffic. He said he does not understand the logic of putting 22 units on Bernards Avenue, which is a postage stamp lot with a street width of 20 feet. He said anywhere he has lived, if it has low income rental units, property values don't go up. He said on the mountain, five acres gives you about seventy thousand dollars in taxes and in Little Italy it gives you eight hundred thousand dollars in taxes. He asked if that property value goes down, where are we going to make up that tax dollar. He said it is going to raise taxes because that is the only way to do it. Mayor Canose said affordable housing was all established even before most of these council members were on council, and it was settled by the courts. She said now the Planning Board is in charge of that so there is nothing at this point that the council is involved in.

Maureen Sciarretta, Center Street, asked about the traffic part of Center Street and Bernards Avenue. She said Bernards Avenue is a heavily traveled road. She said the units being talked

about are going to bring more traffic down Bernards Avenue which is in a terrible state right now and needs to be repaved. She said the same thing will happen with Amerman with more traffic on Mount Airy Road. She said it's just going to be a bottleneck and more traffic for the people who live on the south side of town. Mayor Canose said there is a bond ordinance on tonight's agenda we are introducing which will cover the bonding to do Bernards Avenue and the Bernards Avenue neighborhoods. She said it's not just paving but a reconstruction so that it can handle heavy trucks and landscaping vehicles. She said we will probably go out to bid in November and hopefully start that project next spring.

Kathleen Shepherd, Ambar Place, asked how many units are we talking about for people to live in and how many estimated children will be going to schools in Bernardsville. She said she chose Bernardsville 14 years ago and lives in a little 120 year old house in a town that she can walk safely around. She said there are nice shopping centers in the midst of town and what we have is a bucolic town in what is still a bucolic area of New Jersey. She said apartments were going to be built in the train station parking lot which was nixed and she would like to see it not happen on the other side of town.

Kelly Thoma, Bernards Avenue, said she would like clarity provided in regards to redevelopment. She said she is hearing a ton of speculation tonight and not facts. She asked that when council gets to the point where they vote, that there's clarity on what we're doing such as if it's a private transaction, private sale, or private owner.

Steve Tobin, Ambar Place, said that traffic issues were brought up in an earlier comment and the response from Mayor Canose was that it's not a council decision and it's for the Planning Board to decide. He said he feels that's ironic as the Planning Board voted against the area in need of redevelopment six to one and asked if council only takes the Planning Board's advice when it's accountable and it's acceptable to them. Mr. Pidgeon said the Mayor was referring to the affordable housing project and Mr. Tobin is talking about the redevelopment project on the Palmer property. Mr. Tobin said while it's two different projects, why is it with one project council is are going to use the Planning Board's decision but not with the other project. Mr. McQueen said the Planning Board has to deliberate and then their recommendation comes to council. He said it's a sequence of events that happens, so after the Planning Board makes whatever decision they make, those decisions come to council either for ratification or disapproval. Mr. DeMarco said the difference is that we are now at the site plan application part of the affordable housing, so the council decided years ago those other properties. He said the Amerman lot and Bernards Avenue lot were all already vetted. He said that is in a different process than the process for tonight which is the initial study to prepare an area in need of redevelopment. He said that goes to the Planning Board to conduct a hearing and then they issue a recommendation which comes back to the council and the council has to either accept it, reject it, or modify it.

Sheryl Riley, Childs Road, said there were 250 people on Zoom at the Planning Board meeting and everyone gave their comments. She said the Planning Board voted six to one to not designate as an area in need of redevelopment. Mr. DeMarco said yes, that was a recommendation to the council and now the council gets to do one of three things, accept it, reject it, or modify it.

Eddy Zervigon, Bliss Road in Mendham, said he has a long background in governance. He said this whole debate is about process, transparency, and good governance. He said the concerns that have been brought regarding the potential for the council to go against the recommendation of the Planning Board crystallizes the unease of those in opposition to this redevelopment plan. He said he does not understand why council would go against the thoughtful recommendations of the Planning Board after the four hour meeting. He said it would be helpful to poll each of the council members and the Mayor to find out exactly what they know in terms of a potential plan, renderings, discussion on project specifics, and any negotiations regardless of how preliminary. He asked if there has been specific discussions with any of the principals at Advance Realty on this redevelopment effort.

Mark Melillo, Campbell Road, said he is 50-year resident of Bernardsville and recently entered the process of running for Mayor. He said he does not own nor have ever owned any property in the downtown, his son does through Melillo Equities. He said he is not an owner, a member, or an employee of Melillo Equities, that is his son's company. He said his son has committed not to becoming the master developer under any circumstances. He said would like to speak and focus his attention on former Mayor and Freeholder Peter Palmer. Mr. Melillo gave a background of Peter Palmer's political career. He said he feels Peter's most successful accomplishment is a successful negotiation and subsequent purchase of the five hundred acre property called Natirar. He said this property was a perfectly preserved park and once the estate of the King of Morocco but upon the king's death, this 500-acre property with an outstanding mansion was vulnerable for redevelopment. He said as a County Freeholder, Peter Palmer successfully purchased the estate for \$22,000,000 and stopped the potential development by national home builders. He said Peter Palmer also created a public private partnership lease for the portion of land ensuring the repositioning and repurposing of the mansion and future expansion endeavors such as restaurants, hotels, spas, and private residences. Mr. Melillo, in his statement, asked Peter Palmer to why not end his career and galvanize his legacy with something that will stand the test of time, something that will be appreciated for generations, something that people of any age could use and benefit from. He said buildings could come and go, but Peter Palmer has another solution, a solution that will solve the traffic congestion and bring much needed green space to our town center, a solution that will solve the almost non-existent parking for businesses that surround Olcott Square, a solution that will solve the vacant storefronts and tenant instability, a solution that will bring jobs and much needed revitalization to our downtown. Mr. Melillo said with Peter Palmer's help, his property can be the first flame that will ignite a series of well thought out repurposing of our downtown. He said his proposal to Peter Palmer is not to develop his property, but to preserve and repurpose his property. He said the proposal in simple terms would be to create a public park with community parking at a high level, realign the curve for better sight lines and traffic flow, widen the sidewalks for pedestrian friendly foot traffic, install benches, seating, and bike racks for public interaction, install a flagpole with manicured landscaping to honor our nation, redo the parking lot to provide adequate spaces for visitors and business support, redo the entrance and exit for safety and ease of access, construct two small 1700 square foot historically appropriate buildings to support retail activity, and finally recreate an area dedicated to honoring Peter Palmer for his years of service. He said Palmer Park will stand tribute for generations to come. He said this proposal will cost money but when things are that important people somehow find a way to get it done. He said if we run into trouble we can

always take a page from Peter Palmer's playbook especially from where he found \$22,000,000 to save our local community from an overdeveloped sea of homes. He said we should work together to fund this project, to stimulate the right type of growth to revitalize Olcott Square and the business district to the south. He suggested pausing tonight and voting later and to let the council come back with the economics for this option or maybe some other option.

Johanna Wissinger, Washington Corner Road, said she has no special interest in this topic and she is not a personal friend of council members. She said she endorses a yes vote by the members of council for the determination of need for improvement on the Palmer property. She said benefits to this municipality have been clearly explained to the public by Mr. Czerniecki and Mr. DeMarco. She said there should be no criticism for not being transparent as there have been multiple meetings and information on the borough website. She said the primary responsibility of this council is to make important decisions to promote thriving downtown businesses. She said we should use every tool available that will aid in promoting smart development consistent with goals that councils, committees of business owners, and residents have given much thought and time to. She said she came to Bernardsville because she loved the quaintness and can empathize with the concerns that some of the residents have expressed tonight. She said a thriving commercial center attracts businesses, filled stores, and attracts more shoppers. She said she believes a tenant/landlord lease serves both parties and at the terms end a landlord has the right to redevelop or sell. She said a tenant has the right to relocate or retire and councils play no part in these decisions. She said making the wisest decision for Bernardsville requires knowing and using all the tools available.

Jen Zervigon, Bliss Road in Mendham, said council has worked very hard to sway the public into believing that the designation of an area needed redevelopment is a common and safe method to improve towns. She said she doesn't believe it's been made clear to the public that it is in fact a very contentious tool that has resulted in lawsuits across New Jersey for years and taxpayer pain. She listed the reasons this rule is so controversial. One is tax money as redevelopment permits the developer to make a payment but unlike ordinary tax payments they go directly to the municipality. She said the county and the Board of Education does not get any money whatsoever for a period of time. She said another reason is lawsuits, as areas in need of redevelopment are very controversial tools across New Jersey and there have been lawsuits and claims of misuse across the state. She said another reason is money for the developer and the landlord. She said if council overrules the Planning Board tonight it is giving the developer an extremely valuable asset as the PILOT tax benefit would benefit the landlord. She said another reason is that disregarding the Planning Board's near unanimous vote sets the dangerous precedent for this council. She said this would strip power from the independent Planning Board and consolidate it within the council. She said she urges council to be honest with their constituents about the tremendous risk and uncertainty their decision will have if they vote against the Planning Board.

Doralicia Gonzalez, 15-23 Pine Street, said she's attending because the result will impact her job and family's situation. She said she knows that development can happen at any time for reasons such as financial benefits for the landlord. She said she sat through the last several meetings including the Planning Board meeting where they voted to recommend not making this an area of redevelopment and that small things can be fixed without this designation. She said it now

sounds like council wants to go against the Planning Board vote, mainly because they want more control, but she's sure they have good intentions. She said she would be devastated by the vote being overturned.

Rich Rodriguez, Maple Village Court, said he took some time to get try to better understand the Palmer property situation. He said he walked downtown and was having a hard time getting around the corner and understanding what building was trying to be protected and preserved. He said what he saw was an area that looked like it needed redevelopment. He said there is always a traffic nightmare at the light and it's unsafe when he jogs around the corner with running into a telephone pole almost every time he goes there. He said it's something he feels would be important for us as a community and as residents to redevelop. He said he hopes the council will use their foresight and potentially overrule the Planning Board and realize the significance and impact that it could have on all residents. He said one of the things that attracted him to Bernardsville a few years ago was knowing that this redevelopment process was already kicked off and so many great things going on with the Downtown Bernardsville group.

Sari Mazen, Mendham resident,, said she and her husband David are the owners of the Bagel Bin, a family-owned business which has served the community for 30 years. She said throughout the years they have been proud to support local fundraiser events from Bernardsville schools, churches, and organizations among many others. She said they are passionate supporters of the Bernardsville Police, Rescue, and Fire Departments and for years have sponsored events to honor local veterans. She said there is a collection can on their counter to support the Valerie Center to help children in our community battling cancer. She said their business survived Hurricane Sandy, the closure of Mount Airy Road, and Covid thanks to their loyal customers. She said another challenge has surfaced as Peter Coccoziello, Jr. of Advance Realty has his sights on the Palmer properties. She said he's positioned the Mayor and Council to seek a project through a process called redevelopment designation. She said these properties did not qualify as unanimously confirmed by our Planning Board and they simply lacked some overdue maintenance. She said they understand that the Palmers have the right to develop or sell their property, but should not be able to sidestep our Planning Board. She said if the site is ever to be developed, it should be developed using the borough's recently updated downtown zoning laws and the developer must follow the traditional Municipal Land Use Law. She said she and her family have been heartbroken that 30 years of business comes down to this decision and they simply want their business to survive and to continue to serve the community. She said she hopes the council upholds the Planning Board's decision. She asked Mayor Canose if she will waive her vote if the council has a split decision. Mayor Canose said she does not get to vote if there's a tie as there has to be four council votes for the resolution to pass.

Donna Graham, Bridgewater, said she worked in Bernardsville for many years. She said the Planning Board did the job asked of them and voted six to one against designating as an area in need of redevelopment. She said the two main points that were brought up just don't qualify for redevelopment. She said the first one regarding the parking lot was more about negligence on the property owner not maintaining it. She said the other one was regarding ADA and with ADA, those buildings are too old and are exempt. She said taking the dollars that would benefit the developer more than anyone else from the New Jersey residents is wrong. She said to vote for it today requires council to have rationalization not logic.

Sue Rankin, Pine Street, said we can all agree that the property needs to be somehow redone and it is a little bit of an eyesore. She said her greatest fear is that council will take on the designated blighted area which changes a lot of things for this and into the future as other areas are looked at that need to be redeveloped. She said once an area becomes declared a blighted area you can't change that and that opens the door for eminent domain. She said she knows at a recent meeting council said they would not use that but the problem is once that door is opened there's no guarantee on anything. She said she liked the idea of Palmer Park but also understands the need for the property owners to make money on their property. She said she strongly urges the council to not do the designated blighted area, but have the owners, Advance Realty, or whomever, work on the property to make it nicer under the auspices of the Planning Board.

Jeff Lefkowitz, Ambar Place, said the council has gone to great lengths to accommodate Advance Realty regarding the Palmer properties. He asked has the board done any due diligence on Advance Realty besides what has been presented by Advance Realty. He said he asks because a quick search that he did via Google indicated that there is a one million dollar lawsuit now pending from Scotch Plains that was brought by Advance Realty and by a company called PSS because they got rid of Advance Realty and are doing something totally different in terms of the property. He said he loves the historical values of Bernardsville and really would like us not to get into a situation where we're being sued by somebody who's pursuing us to rehabilitate the property.

Eric Colwell, Campbell Road, said he was asked to attend the last session where Topology presented the report of why the Palmer project would qualify for redevelopment. He said he watched that presentation and as much as he thinks there's some quirky elements to that property, he understands there's five stipulations that that would make the Palmer property a target for redevelopment. He said later on in the meeting when council is explaining their rationale, his hope is that they don't reiterate those five things because he feels we all understand this. He said he thinks what we all want to hear about is why and that's what he hopes they will tell us.

John Ridley, Campbell Road, said he was intrigued upon reading Topology's report. He asked council to focus on pages 15 and 16 of that report when they are engaging in their consideration because that is the critical portion that deals with the meaning and the definition of blight under the law that is applicable here. He said the concept of faulty arrangement is also addressed in that report. He said he read the case law that is cited by Topology to support their proposed finding that there was a condition of blight and he cannot agree with the legal decision that they come to that satisfies the concept of blight as it's been enunciated by our Supreme Court. He said he thinks it's almost self-evident that it shouldn't because while there are significant issues with the parking lots outside of the Bagel Bin and behind the Palmer buildings, they are all readily, very easily curable unlike the properties that have been found to be blighted under the law in other cases. He suggested council look at the Topology report very carefully and perhaps ask the borough's counsel to give further illumination on what the meaning of blight is under the statute and what the meaning of faulty arrangement is under the statute. He said after reading the other cases, he drove to the center of town past the Palmer building and thought it is inconceivable to find that this is a blight condition, notwithstanding the problems in the parking lot. He said he is in that parking lot many days a week and while it needs help, it's not a basis for finding that there is a blight condition.

Kara Valentine, Stirling Road, said the culture of the town is very important to her. She said she wants council to focus on the governance. She asked how they can possibly override the Planning Board's recommendation. She said there is already heavy traffic and can't imagine building that area and having more cars on the road and more congestion just to get into town. She said Bernardsville is about community, it's an incredible town with great culture. She said if you walk into any store you know everybody and the Bagel Bin is no different. She said she really wants to maintain the culture of the town and hopes that council will seriously consider that in their decision making.

Olivia Manning, Orchard Street, said we have a state highway running through the center of our town and while that's most certainly not any kind of excuse, it is absolutely a challenge. She said she is the Executive Director of Downtown Bernardsville and they are trying to work with the state to put up a sign for the community. She said it's very challenging and should be kept in mind when thinking about traffic. She said to also keep that in mind when considering all the changes that may or may not be happening in the center of town. She said the fact that we have a state highway makes it very difficult to be able to make necessary changes so that traffic can be alleviated since we have to work with our state officials, our Department of Transportation, and a number of other individuals. She said she is for making any kind of changes that would make traffic better, but we have to remember that it's not just today's decision that makes an impact, it's a number of other things that come into play as well. She said our Mayor and Council are all volunteers so they're doing this as being civil servants, not because they're getting anything out of it. She thanked the members for being on council and making these difficult decisions on other's behalf.

Paul Sedlak, Childs Road, said some people tonight are saying that they want things the way they are. He said there was a survey that went to every household in town in the winter of 2017/2018. He said we have 2,500 households and had 1,102 households respond to it. He said they were asked if our center of town needs to be revitalized. He said 98% had it as important, so 44% of our households responded that this is an important issue to revitalize our center of town. He said there was an open town hall at the High School in March 2018 where a couple hundred people attended and there was even a working charrette with Planners during that session. He said there was a committee that presented to the council about once every quarter when we had in-person meetings and that stopped once Covid hit. He said there was a lot of support and energy behind revitalizing the downtown and now the question becomes what is the definition of revitalization. He said the Planning Board is just an input to council's decision and many factors have to come into play. He said from the 2524 households that pay property taxes in Bernardsville, they represent times of roughly around 90% of the revenue to support the town. He said we have a downtown that's underperforming as it's a downtown that was built from the 1940s. He said it's about having a vision, a strategy, and the guts to do what's right long-term to create the environment for sustainable success for the merchants, residents, and taxpayers, and for the town to not be overly reliant on the residents. He said with an area in need of redevelopment, we're not talking about what's being built, it just gives the town the control to say what should be built because if it's not done that way then anything can go up in that location. He said we all want this to be a town where you grow up, raise your kids, raise your families, and we have a center of town that we can be proud because it's a destination for people to come to spend a day.



Sheryl Riley, Childs Road, said when a survey asks if would you like your town to revitalize and be beautiful everybody's going to say yes. She said right now the rent in a lot of places is really high. She said maybe we could figure that out to make it a little easier for people to put in stores. She said the area where Kings used to be was revitalized but nobody tore it down and put up an apartment complex. She said the same is true for the old Mastro Shoe Store which looks beautiful now. She said that's what they mean about revitalization to still stay in the small town aspect of it instead of putting up high-rise buildings.

Maria Nadel, Pottersville, said they were very involved with the survey and believe in redevelopment. She said the town is a beautiful town as she's been shopping and coming to Bernardsville for 35 years. She said when people think of redevelopment, they think the empty stores like the Audi dealership and the restaurant that is going into the train station building. She said that's redevelopment, filling empty stores, fixing things that are broken, and doing things that are good for the town. She said she knows that the council needs control to do the Palmer property, but even if it wasn't a redevelopment zone, if the Palmers sell, council is still going to be in control because they can't do things without their permission. She said maybe we should all work together and try to make things right.

Paul Sedlak, Childs Road, said the survey that was done wasn't just about revitalization. He said revitalization also means amenities for the town such as parking, parks, and walking paths. He said when they asked the public what would they want, they wanted more sit-down restaurants, more cultural and family events related to the arts and food, some high-end bars with music, brew pubs, wine bars, town sponsored events, bike paths, signage uniformity, concerts, shows, and pocket parks. He said there was a comprehensive survey to the town and the town spoke with 98% of responses coming forward that this is what they were seeking. He said there was input, people were not ignored, and the people of Bernardsville spoke.

Janice Virtue, Childsworth Avenue, said the fact that council would bypass a six to one vote from the Planning Board is unconscionable. She said while council can ignore the Planning Board's decision, council needs to consider the vast majority of the people's comments tonight and take them seriously. She said she would find another way to revitalize the town so that people are happy. She said council really needs to consider all the people present and remote and think about what the Planning Board recommended.

Barbara Pitney, Lloyd Road, said she has one comparison which was easier and less of an issue in the long run. She said quite a few years ago the school board decided that we were a town that had culture, like Paris, London, and New York. She said they decided that they would put a baccalaureate program in place. She said 90% said it's not going to work because we're not cultured and don't have museums or anything to make it effective. She said they fired half of the teachers because they had to hire baccalaureate trained teachers and they lost some of our best teachers as a result. She said it was recognized many years later that we can't perform the baccalaureate and college entrance examiners looked at it and said that's not a baccalaureate program. She said this isn't reversible like the baccalaureate was and it worries her that council is going to do something that can't be reversed.

Tara Vitolo, Claremont Road, said she has a business at 13 Olcott Square and she was someone who completed the survey that actually wanted redevelopment or revitalization. She said she wants to retract that. She said when she first moved to Bernardsville from a city area, she only had one son and was younger. She said seeing there weren't any bars, pubs, or anything with a liquor license was unsettling. She said she is not against redevelopment or revitalization, but against condos. She said she doesn't want them and thinks a lot of people would probably retract their survey if given the chance. She said there are some empty storefronts and feels that's the town's job to cite the landlords or possibly ask them to lower the rents as other towns do. She said regarding the Palmer property, if they don't get redevelopment are we going to back cite them for the negligence on their property because they really could have done something about it. She said she really hopes council votes against this.

Chris Herold, Pottersville, said he owns Mine Brook Properties which is in the Quimby redevelopment zone. He said it includes Plaza Tikal, Tsuki Restaurant, the former Budget Print Center, 19 Mine Brook Road, and 17 Mine Brook Road, which is six tenths of an acre in that zone. He said the survey was done all wrong as everybody wants redevelopment. He said the survey was worded wrong and did not say do you want redevelopment with the possibility of condemnation that would tear down all the buildings. He said condemnation also allows to create leases that would kick all the businesses out and change the town completely. He said all along the council has said it's a non-condemnation zone and there's an ordinance that says non-condemnation. He said there was a developer's agreement signed on January 20, 2022 with Advance Realty which says the town can do a condemnation if they so desire and they can change everything. He said he had a meeting with Peter Coccoziello of Advance Realty who said they could do a friendly condemnation but Mr. Coccoziello made it very clear that if they didn't do a friendly condemnation it would be a real condemnation. He said they want control because they want to be able to condemn everybody and that's why we should not have these redevelopment zones in this town.

Mr. DeMarco said he'd like to clarify. He said he wrote that agreement and it did not say the town can do condemnation without properly going through procedures. He said any municipality has the right to start a condemnation whether it's in an agreement or not. He said there is a process. He said this council started a process on Quimby where it said non-condemnation and said that the area in need of redevelopment will not have the power of condemnation. He said all that agreement says is the developer at a certain time can come back and ask. He said the council did not give any or waive it. He said if they wanted to do it, it would have to go all the way back to the beginning and start over again. He said it would never be done in the dark at night. He said it would be a room like this and this council has gone on record every time they've been asked if they would ever say yes to that, and their answer has been no.

Eddy Zervigon, Bliss Road in Mendham, there's no trust in this process and wants to see transparency. He said he implores that he would like to see from all of the governing body, a signed affidavit under oath that they do not know anything in terms of developer's plans that they have not shared with everybody, haven't met with Advance Realty, and haven't seen designs. He said if they can't do that, then they are not going to have the transparency and not going to have the trust of the people.

Maria Nadel, Pottersville, said she doesn't think that the intention was bad but thinks that agreement was Peter Coccoziello's agreement and that's what he wanted, it's his developers agreement. She said in the agreement it says after two years if he can't purchase, she's unsure of the exact verbiage, but it says or eminent domain. She said even if council all said no to doing condemnation and no to doing eminent domain, she believes that Peter Coccoziello would sue the town to be able to do eminent domain because he has a lot of lawsuits. She said that's why everybody is concerned and that's her concern.

Mr. DeMarco said the developer did not have the right to do eminent domain. He said it has to be done by council and the developer could sue all he wanted and the town does not have to do eminent domain.

Kristi Modin, Stone Fence Road, said she and her husband lived in Jersey City for almost 20 years and came out to Bernardsville because they wanted a small town community, smaller school, to be in a place where people know them and teachers know them. She said a place where they feel like their kids can be successful. She said in Jersey City they had a waterfront development where there was a radon cleanup that had to be done and the city was very transparent about it. She said transparency is definitely something that they want to understand. She said she doesn't understand the idea of putting housing units in such a busy area. She said they moved from Jersey City to get away from that and she's not understanding the logic to potentially having families living there and children playing near the street. She said she and her neighbors want to keep this small town feel.

Kathy Peachey, Chilton Street, said she completed the survey and in the survey she mentioned that we should have a weed whack day where everybody goes downtown with their weed whacker and uses it on the sidewalks. She said it's so nice to hear how everybody loves Bernardsville and she wants the Planning Board decision to go forward. She said Peter Palmer was not just a civic servant but he served the high school for many years as part of the band fronts and she has a great affection for him and his wife Kathleen. She said signage is a great place to start and would be simple to get the signage under control and go from there. She said her concern with Advance Realty is that this is a gateway to a whole bunch of other stuff, not just on the Amerman parking lot and Bernards Avenue. She said she sees the need for how those properties can change. She said townhomes across from the wastewater plant, at the foot of Woodland, and all along Claremont is kind of islandizing the four neighborhoods in that area as well. She said both sides of towns are experiencing the same concerns.

Greg DiGiacchino, Somerset Avenue, said his basic feelings are very simple. He said he moved here because he loves this small town which is the charm of this borough. He said he didn't move to Morristown, Summit, or Somerville because that's not what he wanted. He said he has hundreds of pictures at home in his office that depict what Bernardsville was and what it is today. He said we're losing that and as mentioned earlier about the baccalaureate program, you can't go back on this. He said he wants this to be thought through. He said for the people who want it, there are towns where there's houses listed for sale. He said he wishes we would keep the charm this town has and hopefully will continue to have. He said he is fearful that we're going to lose that and hopes this council makes the right decision to keep what we have and modify it.

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

Mr. DeMarco said the biggest question is what we are actually doing. He said all that happens tonight if council votes yes is that gets declared an area in need of redevelopment and that's it. He said if council wants to change and write a redevelopment plan on it, they send it to the Planning Board which is what they did for Quimby when people met in groups to decide what that plan should look like. He said the plan then comes to council for a vote. He said the only issue tonight is if it is an area in need of redevelopment. He said that means no PILOT, no zoning, no tall buildings. He said it is the first step in that process so if you don't do it, there is zoning already in place, and a question would be what does the current zoning allow. He said if you put 70 residential units, no one in this room would have a say. He said they would go right to the Planning Board, put in their application, and only the people who live within 200 feet will receive notice. He said most of the 200 feet at that location is a railroad track and some businesses and you would wake up one morning and there'd be construction. He said that's what they're allowed to do which is the same as if someone could take their house down tomorrow and put in whatever the current zone allows. He said if they want to put a bigger house than what the zoning allows, they would need variances. He said redevelopment just gives this board a little bit more oversight over what can go there. He said there's already underlying zoning that allows 70 residential units to get built there with no say other than they just have to comply with the zoning. He said regarding eminent domain, this project has no eminent domain. He said regarding blighted areas and non-blighted areas, two professionals who are Planners, Borough Planner John Szabo and a professional planner hired by the Planning Board, both said it meets the criteria. He said the council has the right to either amend, modify, or accept those findings. He said regarding lawsuits against Advance Realty, yes they've been sued as probably almost any developer has been. He said regarding a PILOT, in order to qualify for a PILOT, you must be in an area in need of redevelopment. He said it doesn't mean you get the PILOT and there is no money that goes to the developer and there is nothing that gets sent to the redeveloper if this area gets declared as an area in need of redevelopment. He said council has to approve any financial agreement, the financial agreement has to run its course, it has to meet certain standards, it has to have a public hearing, and it has to be passed by ordinance. He said there are pros and cons for that, we are not there yet and we may never get there. He said a PILOT is a payment in lieu of taxes. He said it does not mean that the property does not pay taxes, but they pay it differently and to different people. He said PILOTS are good tools but they're not necessary all the time and it depends on the tax base. He said it would have to go to council and also be reviewed by the Administrator, Municipal Attorney, and CFO. He said there is a new zoning ordinance for the Route 202 corridor from Monterrey Gourmet to the Rose Bowl Field. He said a developer can't come in and just change the zone. He gave an example of 106 Mine Brook Road, which is next to the Firehouse with plans for 20 units. He said the Planning Board approved three stories, 20 residential units and no one said anything. He said his point is that this process is good because everyone knows about it.

Mr. Czerniecki said he wanted to address the concept of control that has come up. He said Ms. McCredie asked what could potentially be built on a lot that size under our current zoning because the question last time was why don't we just let the zoning ride. He said examples are McDonald's, Target, and Walmart that technically could go there under our current zoning. He said the way zoning works is you have a Master Plan which has to be reviewed every few years

and after you have a Master Plan you are allowed to do a Zoning Plan. He said the reason you do redevelopment is that it allows you to create an incentive. He said when he was hired, council talked about a community visioning effort and people got involved and excited that they were going to do something to address the storefronts. He said they are not looking to control anything and not looking to do anything in the middle of the night that's not for the community's best interest. He said he's confident that if it's an area in need of redevelopment we can tell the developer to show us what they have and bring it to a meeting in front of the public.

Mayor Canose said Mr. DeMarco was asked to prepare two resolutions, one that names it as an area in need of redevelopment and one that supports the Planning Board's decision.

Mr. Ribeiro asked for clarity from when somebody made a comment that once the designation is in place we can't change. Mr. DeMarco said you can't but you also don't have to go forward. He said you can just declare something an area in need of redevelopment and never do anything, never take the next step, and never do the redevelopment plan. Mr. Ribeiro asked about lawsuits. Mr. DeMarco said any action by a council is always subject to review. He said the redevelopment law is no different than anything else a municipality does. He said there are towns where lawsuits happen but it's just the nature of ordinances and actions taken by boards.

Ms. McCredie urged everyone to attend the Planning Board meetings because there are plenty of developments in town that are going in front of them and are against current zoning. She said there are four things that she wants to see in the Palmer area. She said one is greatly enhanced and improved traffic and sight patterns. She said the traffic is atrocious in the middle of town and all of this other development isn't going to help. She said it will require work with the state, the county, and the developer whoever that might be. She said she feels what that essentially means is that that Palmer building on the corner needs to be moved back as there's no other way to increase traffic flow without that. She said there's nothing that can be done about it unless this is made an area in need of redevelopment. She said the second is the parking availability that we can urge and put parameters against. She said we can change the use itself as well the number of residential units and also the setbacks. She said the case for designation is not about the blight or the lack of maintenance, the case is about the traffic patterns. She said she wants the Palmer building moved away from the center of town, which falls under faulty arrangement and smart growth which is also part H of the criteria. She said the county, state, borough, and developers have to cooperate in order to make this happen. She said the Planning Board is made up of a group of volunteers as is the Mayor and Council. She said they were all voted or appointed to their current positions and she greatly respects each and every one for their service. She said unfortunately none of them do this for a living and are not planners. She said we have our Administrator who is a certified planner, we hired a company with a certified planner, and we have Borough Planner John Szabo and all of them agree that there are stipulations in the current law that make this an area in need of redevelopment. She said while the Planning Board voted six to one for this to not be an area in need of redevelopment, she's looking at our professionals and unfortunately not at our volunteers. She said the laws set a low bar. She said she wants to make sure that intersection is fixed. She said this designation only allows the borough council to work on a contractual agreement and she will not approve a contractual agreement from a redevelopment perspective if the stipulations she mentioned are not met. She said she has not

seen any concept plans of the Palmer property nor has she talked to Advance Realty, Peter Coccoziello, or anyone from Advance Realty about the property.

Mr. Ambelang said he agrees with Ms. McCredie from the standpoint that they are all volunteers. He said he attended the Planning Board meetings and read through the presentations. He said the bar is very low for designating an area in need of redevelopment. He said he feels the Planning Board looked at the fact that the bar was low and this did not exceed it. He said he respects the professionals but in this case feels that, especially being a new person in town and on council, it's important to listen to various opinions. He said he has a philosophical belief that government should not be involved in or should try to reduce involvement as much as possible in items such as this. He said this is a very gray issue and he completely respects his colleagues for how they vote. He said he does not think this is cut and dry and while there are some benefits to redevelopment, we haven't gotten that far to pass the bar.

Mr. Ribeiro said it's great to have so many people come and be a part of this meeting. He thanked the public for their interest and for taking the time to provide input in this important issue. He said leading up to this vote, he sought to understand the perspective of the public, the Planning Board, our businesses, and other stakeholders in our community. He said he watched and re-watched the Planning Board meeting on this topic, read New Jersey's development law quite a few times, researched cases of comparable communities who have done redevelopment and those that decided not to, spoke to many residents, read every comment on the bubble, spoke with lawyers, and spoke with many community stakeholders. He said he met and reached out to every single business in the current zone of the property so he could sit down and listen to them to understand their perspective. He said this is a very important issue for our community as evidenced by the amount of interest this property. He said on his campaign for this office last year he knocked on over 1,000 doors in Bernardsville and spoke to thousands of residents and the top issue raised by over 75% of people was taking steps to revitalize our downtown. He said it's the reason everyone on the council has taken their time with the decision and it's not only wanting to get it right for our community but in a way that tries to bring all those invested in the future of Bernardsville along. He said after listening to and considering all the valuable input two things became clear. He said the case for this property as laid out was not particularly strong. He said there are safety needs especially around ADA accessibility neglect and inefficient designs of the property such as traffic problems. He said the standards to meet an area in need of redevelopment designation are extremely low and the law doesn't stipulate the severity. He said it's possible that the bar was set that low by our state officials because as you read the statute, it's not hard to see many properties meeting one of their criteria and it only must meet one, which he can understand why many of our dedicated Planning Board members struggled with. He said in reviewing all the factors of whether it meets the criteria, in his personal best judgment it does. He said in reading through the statute there's certainly enough there to meet the threshold of an area in need of redevelopment, including the criteria for properties which could help fulfill our smart growth plans. He said we have a wonderful downtown and we all agree that what is needed is a revitalization not completely reconstruction, but with that said there are too many empty storefronts and the downtown is disjointed. He said commercial property owners in our town pay less than 7% of all tax revenue so almost all the borough's revenue, over 93%, come from our residents. He said these factors need to change so we have a vibrant downtown that continues to attract future generations of residents and

businesses. He said he understands the perspective and the anxiety of those against this resolution and believes that these concerns are best addressed by this designation. He said if you want to ensure the borough does not over develop, you want to preserve our historic small town feel, and be sure that we don't become Morristown or Hoboken, then you should want to name the area in need of redevelopment so you can control growth, slow down the pace, pump the brakes in development when necessary, and address the traffic flow of the intersection. He said it gives us the best opportunity to make adjustments to the traffic pattern and congestion. He said we can also consider the input of our small business in the area as the borough can work with the developer and even demand those considerations, otherwise this is nothing more than private property and the person can do whatever they want to do within the zoning laws without the input of the affected businesses or community. He said with all these positives why wouldn't you want to the scenario of having an area in need of redevelopment. He said if you don't believe local government should be involved in these types of decisions and that it's best left to the free market utilizing existing zoning laws. He said this argument does have resonance with him, however the belief that not naming this an area in need of redevelopment will stop rebuilding on this property is just not true. He said in the end, he not only believes it fits the criteria, but also is the best way to protect the community's interests including the residents and the small business owners. He said this is a particularly difficult decision because he respects the Planning Board and how hard they work to provide a fair hearing of all applicants and were very diligent in this review. He said he does not trust any developer but trusts the Borough officials to completely drive the process with the best interest of residents in mind. He said he will work tirelessly to hold any developer accountable that will not sign any agreement that doesn't fit what he has mentioned above and he will absolutely not vote for any agreement that uses eminent domain.

Ms. Greenfield said it's very important that we take a look at issues from all different perspectives. She said she read the Topology report twice and came to a conclusion after reading it the first time but knew she had to do more diligence. She said she listened to the various presentations given at the borough council meeting, watched the four hour Planning Board Zoom meeting, talked to residents, visited with business owners, visited the property and walked around all the areas that were in the Topology report to see the condition. She said she thought about the issue for several weeks, continuing to review all the information she gathered. She said in the end, her conclusion was the same that she began with and concluded that the decision made by the Planning Board regarding the Palmer property was the correct one and in the best interest of the Borough of Bernardsville. She said in her opinion this property does not qualify for an area in need of redevelopment.

Mr. McQueen said as a member of the Planning Board, when he first heard that the property was purchased, he was very concerned about it. He was concerned for the tenants that have businesses there and concerned since he knew the zoning, being that he was part of the group that put it together for over a year and a half. He said his analysis of Topology is that when the state wrote the legislation they purposely did it very broadly with a very low bar. He said the statute states to assist local governments in their efforts to arrest and reverse these conditions, promote the advancement of community interests with programs of redevelopment, rehabilitation, and incentives to expand the improvement of commercial, industrial, and residential facilities. He said with the criteria very low and very broad, all you have to do is take

a helicopter or drone and look over that property and see buildings on corners and exits close to corners to realize that meets the definition. He said the question of “why?” is the right question, and the why is that it’s a central corner and a congested corner. He said if a builder chooses to build something it’s going to set a zoning precedence for all neighboring buildings. He said there are things that he would like to see fixed above and beyond zoning. He said he has major concerns about traffic and sight lines, entrances and exits onto Route 202 and into various roads. He said he wants to ensure that these are sufficiently assessed for pedestrian safety, sidewalk use, and open space, along with showing the designs of these lots are consistent with the vision we all have of Bernardsville. He said he feels there is no one attending this meeting that wants to see large block development or large businesses in this town. He said these are things that through what the state wrote we can address and deal with in a redevelopment plan. He said he wants to narrow the approved uses in our zoning. He said he wants to ensure that our local small town businesses are always the centerpiece of this town and that the developer gives us assurances. He said he wants the assurance to be in place that this is always a small business first community in redevelopment.

Ms. Zamarra said some of the things that came up were important and she always looks to ask who they are important to. She said she has been here since when this process first begun and heard a lot about this topic from people not only at public meetings but through contact with residents, emails, and phone calls since 2018. She said revitalization is just a word and it means different things to different people. She said she was warned in the beginning of this process that when people realize what revitalization encompasses they may not like it because it’s a change and we are averse to change. She said everybody has a concern about traffic and that they can’t get through that corner, their kids are late for school, the red light takes too long, and their kids can’t walk because it’s too dangerous. She said those are the people who come to her and say they don’t care if there’s traffic because they have no other choice but to walk. She said some say they have to go to work and their kid has to walk to school and they worry about them getting through that intersection without somebody going too fast. She said if the cars are stopped the kids aren’t going to get hurt. She said she is not concerned with that argument of traffic backing up and she would like to see it improved in terms of pedestrian safety. She said that is the number one driving force from what she learned in researching what this law helps us to mandate. She said we can mandate whoever develops it to put in pedestrian safety so as to not have people walking through that parking lot when getting a bagel and potentially being run over. She said people say that hasn’t happened but when you talk about your worst fears and nightmares, the parents who send their kids walking down through the parking lot, walking from the train to the high school, that’s the fears. She said it would be good if that corner can be safer because there are parents and elderly people who want to walk across town to see a friend who live less than a mile away, but they avoid it because they don’t want to cross that street. She said voting in favor of this is nothing personal against any individual or corporation, it’s a matter of public safety and pedestrian safety, with pedestrians being able to get from one place to another with the pleasure of not having to look at a dilapidated building or not having to push their stroller into the streets, or not tripping on a pothole and breaking their ankle. She said yes, those things can be fixed with regular tax dollars, but this is a way to expedite it because it’s taking 20 years for any of those improvements to really get done. She said she isn’t talking about fixing a pothole, she’s talking about real infrastructure that supports a kid who wants to bike to school or wants to walk to the library from one side of town to the other. She said she doesn’t want an



other side of town, she wants a central town where everybody feels welcome to walk through it without fearing that something is going to happen.

Mr. McQueen moved to adopt **Resolution #22-185, RESOLUTION OF THE BOROUGH OF BERNARDSVILLE, COUNTY OF SOMERSET, NEW JERSEY DESIGNATING CERTAIN PROPERTY IDENTIFIED AS BLOCK 125, LOTS 1, 2 AND 3 AS SHOWN ON THE OFFICIAL TAX MAP OF THE BOROUGH OF BERNARDSVILLE AS A NON- CONDEMNATION AREA IN NEED OF REDEVELOPMENT PURSUANT TO THE LOCAL REDEVELOPMENT AND HOUSING LAW, N.J.S.A. 40A:12A-1 ET SEQ. (Palmer Property).** Ms. Zamarra seconded and the motion was approved by the following roll call vote. Ms. McCredie, Mr. McQueen, Mr. Ribeiro, and Ms. Zamarra voted yes. Mr. Ambelang and Ms. Greenfield voted no.

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

Mayor Canose opened the public hearing on Ordinance #2022-1930, **AN ORDINANCE ESTABLISHING PERIMETER FENCE REGULATIONS AND SUPPLEMENTING AND AMENDING ARTICLE XII OF THE BOROUGH LAND DEVELOPMENT REGULATIONS ENTITLED “ZONING”.** Ayesha Failey, Mullens Lane, suggested the section on hedging be taken out. She said she does not understand why it was included when someone can easily add a line of trees and those trees would not be held under this ordinance. She said she has had a hedge on her property from when she moved to Bernardsville and the reason it's there is because Mullens Lane is very busy and it gives a sense of privacy and protection from the roadway. Following discussion, council decided to remove sections regarding hedges. Mr. Pidgeon noted the sections on hedges to be removed. Mr. McQueen moved to amend Ordinance #2022-1930 by removing the sections as noted by Mr. Pidgeon. Ms. Greenfield seconded and the motion passed with six yes votes. Ms. Greenfield moved to pass this ordinance on final reading and adopt as amended. Mr. McQueen seconded and the motion was approved by the following roll call vote. Mr. Ambelang, Ms. Greenfield, Ms. McCredie, Mr. McQueen, and Ms. Zamarra voted yes. Mr. Ribeiro voted no.

### **ORDINANCES (Introduction)**

**Ordinance #2022-1932,** Mr. McQueen said this ordinance includes the rebuild of Bernards Avenue plus ancillary streets. He said the amount of \$1,300,000 is a large bond number and the Finance Committee has been talking about the debt reduction plan. He said to be fully transparent, this exceeds our debt rate reduction plan, however we've amended our debt plans to remove debt withdrawal and additional debt in subsequent years to offset. He said this project is important enough to get it done now instead of waiting two or three years, so we've revised the debt plan. Mr. McQueen moved that Ordinance #2022-1932, **BOND ORDINANCE APPROPRIATING \$1,300,000, AND AUTHORIZING THE ISSUANCE OF \$1,235,000 BONDS OR NOTES OF THE BOROUGH OF BERNARDSVILLE FOR THE IMPROVEMENT OF VARIOUS ROADS AUTHORIZED TO BE UNDERTAKEN IN AND BY THE BOROUGH OF BERNARDSVILLE, IN THE COUNTY OF SOMERSET, NEW JERSEY,** 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 26,

2022. Ms. Greenfield seconded and the motion was approved with four yes votes. Mr. Ambelang and Ms. Zamarra abstained.

**Ordinance #2022-1933**, Mr. DeMarco said this ordinance is in reference to 55 Claremont Road, which is the house on the corner of Mill Street and Claremont Road. He said the amendments that this ordinance would be allowing are in conformance with the plan that Equinet already submitted to the Planning Board. He said the Planning Board was about to approve it and then realized there would be issues because of conflicts. He said the changes would be to the front yard setback, the side direct setback, how to measure the height because it slopes, the sidewalk, and the landscape. He said these are minor changes. It was noted that after introduction, this ordinance will be sent to the Planning Board for review and recommendation back to the council. Mr. Ribeiro moved that Ordinance #2022-1933, **ORDINANCE OF THE BOROUGH OF BERNARDSVILLE, COUNTY OF SOMERSET, NEW JERSEY ADOPTING THE AMENDED REDEVELOPMENT PLAN FOR BLOCK 71 LOT 6 AS SHOWN ON THE OFFICIAL TAX MAP OF THE BOROUGH OF BERNARDSVILLE PURSUANT TO THE LOCAL REDEVELOPMENT AND HOUSING LAW, N.J.S.A. 40A:12A-1 ET SEQ**, 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 11, 2022. Ms. McCredie seconded and the motion was approved with six yes votes.

**Ordinance #2022-1934**, Mr. Ribeiro said his main concern is ensuring that this ordinance doesn't create too many layers from a reporting and responsibility standpoint. Mr. Czerniecki explained the current structure of the Police Department. He said we're proposing to have a Chief, a Captain, two Lieutenants, and not have a Sergeant in the Detective Bureau. He said the reason for the shift is that over the past two or three years, there's been an avalanche of regulations coming down on police departments. He said it requires not just the establishment of policy but also proof that we're following through on those policies and documenting them. He said we are willing to sacrifice the leadership in the Detective Bureau for now because we realize we can't have everything, but we think from a risk management perspective, it's a much smarter investment to make with our resources. Mr. Czerniecki said he is going to do everything we can to keep that cost neutral. Ms. McCredie moved that Ordinance #2022-1934, **REVISING THE TYPE AND NUMBER OF POSITIONS IN THE BERNARDSVILLE POLICE DEPARTMENT AND AMENDING CHAPTER 2 OF THE BOROUGH CODE ENTITLED "ADMINISTRATION"**, 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 26, 2022. Ms. Greenfield seconded and the motion was approved with six yes votes.

## RESOLUTIONS

**#22-173A      AUTHORIZING PAYMENT OF BILLS (as of 8/25/22)**

**#22-173B      AUTHORIZING PAYMENT OF BILLS (after 8/25/22)**

**#22-174      AUTHORIZING A HARDSHIP EXEMPTION FROM ROAD**

**MORATORIUM FOR STREET OPENING - 86 MINE MOUNT ROAD**

- #22-175      AMENDING THE PROFESSIONAL SERVICES CONTRACT WITH CLEARY, GIACOBBE, ALFIERI AND JACOBS**
- #22-176      AUTHORIZING PURCHASE OF 10 FOOT SNOW BOX PUSHER THROUGH ESCNJ COOP #-MCESCCPS**
- #22-177      AUTHORIZING EXECUTION OF AN AGREEMENT WITH NEW JERSEY TRANSIT FOR THE LEASING OF THE BERNARDSVILLE RAILROAD STATION FOR A TERM OF FIVE YEARS WITH ONE ADDITIONAL FOUR-YEAR OPTION**
- #22-178      AWARDED A CONTRACT FOR THE MOUNTAIN TOP ROAD DRAINAGE PROJECT**
- #22-179      AUTHORIZING SUBMISSION OF AN NJDEP 2022 STORMWATER MANAGEMENT GRANT FOR REMOVAL/REHABILITATION OF IMPERVIOUS AREAS AND FOR GREEN INFRASTRUCTURE IMPROVEMENTS AT 251 CLAREMONT ROAD**
- #22-180      AUTHORIZATION OF SEWER REFUND**
- #22-181      AUTHORIZING REFUND OF POLICE ESCROW FEES**
- #22-182      AUTHORIZING SUBLEASE OF THE BERNARDSVILLE RAILROAD STATION**
- #22-183      AUTHORIZING THE BOROUGH OF BERNARDSVILLE TO ENTER INTO A COOPERATIVE PRICING AGREEMENT**
- #22-184      AUTHORIZING SUBMISSION OF AMERICAN RECOVERY PLAN GRANTS TO SOMERSET COUNTY FOR SEWER PLANT PISTA GRIT REPLACEMENT AND MORRISON AVENUE PUMPING STATION REHABILITATION**

Regarding #22-177, Mr. Pidgeon said that since 1985, the lease provided that NJ Transit is responsible for major structural repairs. He said in this one they changed it to make the borough responsible for all repairs. Mr. Pidgeon's recommendation would be if they insist on that provision, they can have the train station back because it's an old train station, registered as an historic place, and therefore a lot more expensive to repair. He said at the very least he'd like to see it capped at the amount of money we had in the Railroad Trust Fund at that time. Mr. Pidgeon said he wants to put in on record that if they insist on that, he is not going to sign off on the lease until coming back to council. Mr. Pidgeon said because of this he added to Resolution

#22-182 that it's contingent upon the Borough's entering into a lease with NJ Transit. It was decided to pull Resolution #22-182 off the agenda and modify Resolution #22-177 to add that the Borough Attorney is authorized to negotiate the terms of a proposed sublease with IL FORNO Pizzeria by MV in accordance with its October 6, 2021 proposal; and any sublease must be approved by resolution of the Council and is contingent upon the Borough's entering into a new lease with NJ Transit.

Regarding #22-174, Ms. McCredie said council gets this type of hardship exemption resolution about once per meeting and asked if it really needs to go to council or if the Public Works Committee could approve them. Mr. Pidgeon said the way it is set up now, council has to approve and the ordinance would need to be changed in order to allow the Public Works Committee to approve. Ms. Greenfield said the Public Works Committee had wanted the council to see the requests in case they had an issue with a request. Ms. McCredie said there are three council members on the Public Works Committee. It was decided to amend the ordinance at a future meeting. Ms. McCredie said if the Public Works Committee wants council to review a request they can take it to the full council.

Mr. McQueen moved to adopt Resolutions #22-173A to #22-184, except #22-182. Ms. Greenfield seconded and the motion was approved by the following roll call vote. Mr. Ambelang, Ms. Greenfield, Ms. McCredie, Mr. McQueen, Mr. Ribeiro, and Ms. Zamarra voted yes.

## **ITEMS OF BUSINESS**

### **Mayor's Update**

Mayor Canose said she performed her fifth wedding for a young couple in Borough Hall. Mayor Canose attended the Somerset County Legislative meeting and the presenters were Senator Bramnick, Assemblywoman Munoz, and Assemblywoman Matsikoudis from Legislative District 21 which we will be joining soon. Mayor Canose attended Family Day at the pool. She thanked Leah Horowitz and Bob Markowick for organizing the event where so many people were at the pool having such a good time. Mayor Canose attended and spoke at Community In Crisis for Overdose Awareness Day. Mayor Canose and Mr. Czerniecki met with Ashwin Barama, who is still working on his wind bush project. Mayor Canose said she spoke at the 9-11 Service of Remembrance at the Library. She said our Interim Library Director did a really nice job putting the program together. She said they always read the biographies of the two victims from Bernardsville, Allison Horstmann Jones and Thomas Reinig, and there are plaques outside the Library in their name. On Wednesday, the Somerset County Governing Officials meeting will be held at Stoney Brook Grille. On Sunday, from 8:00am to 11:00am, the Mayor's Wellness Committee and the Recreation Department are sponsoring a Health and Wellness Fair at Bernards High School and a 5K. She said even if people are not participating in the 5K, there will be a lot of our local businesses having tables and demonstrating their products. Mayor Canose said they have over 100 people signed up for the 5K, so it will be a really great event.

### **Administrator's Update**

Mr. Czerniecki thanked Verizon for working on the utility lines. He said they replaced poles and fixed downed wires. Mr. McQueen asked if there was any progress on the RFP for the utility lines at the Polo Grounds. Mr. Czerniecki said we are surveying the land for where the utilities have to go and we're expecting the proposal next week.

### **Deer Management**

Ms. Greenfield said the hunting locations are also trails and suggested including signs being posted at the trail heads and website as part of the approval. Council consent was given to approve deer management for the 2022-2023 season and to post signs at the trail heads and on the website. It was noted that Warren Blue Ridge takes care of the signage and will be contacted to provide signage.

### **Small accessory mechanical equipment setbacks**

Vince Bisogno, attorney representing the First Presbyterian Church on Mine Brook Road, and Pastor Chester Kim of the First Presbyterian Church were present. Mr. Bisogno said they are here because the Zoning Officer had indicated they were in violation of Section 12-23 24b of the zoning ordinance. He said this is because they installed a hot box for the purpose to protect their sprinkler system from freezing. The hotbox is located in the front yard, three foot high, two feet wide, and it's about 20 feet from the road. Mr. Bisogno said it was 20 feet from the road because NJ American Water Company told them they had to locate it at that particular spot. He said they installed this hotbox in December 2021 when they found out they could not connect to the water line because it was on the other side of Route 202. He said they had to get permission from the state, county, and municipality to open up Route 202. He said they got permission to connect and then heard from the Zoning Officer that they were in violation of section b of the ordinance. He said it is their position that section b of the ordinance refers to exterior residential mechanical, and as a church, they are an institutional use. Mr. Bisogno said he believes that section A applies to them as it states when an interior building envelope location is not practical, you can locate it at some other location provided you screen it. He said they are willing to intensively screen this three foot high hot box. Mr. McQueen asked what they are willing to do in regards to screening. Mr. Bisogno said they will do whatever the Zoning Officer requires to do, and they will fully screen it with shrubbery so it will not be able to be seen from the road. Mr. Pidgeon said the property location is in a residential zone and that is the issue with the way the ordinance is written. Mr. Bisogno acknowledged that they are in the residential zone, but feels this particular ordinance excludes the fact that they are in a residential zone because it specifically says exterior residential mechanical equipment, which indicates that it's for residents. He said they are not a resident and an institutional use, so that section really doesn't apply to them. It was noted that council can approve this matter and if not, a variance would need to be obtained from the Board of Adjustment. Mr. McQueen moved to allow the screening as proposed by the owner and subject to the approval of the Zoning Officer's approval of the screening. Mr. Ribeiro seconded and the motion was approved with six yes votes. Mr. McQueen said a secondary item he would like to address is that anytime there's a steel mills hot box going in the front property it needs to have not only screening but it should be aesthetically dealt with. He asked if we can adjust the ordinance to make sure that we're not dealing with this anymore. Mr. Pidgeon said that should probably go back to the Planning Board and usually we

refer questions like that to the Planning Board. Mr. McQueen asked Mr. Czerniecki to send this to the Planning Board on his behalf.

### **Zoning Line Change Request for 477-1 Mine Brook Road**

A request from Russell Stephan to change the zoning line to make 477-1 Mine Brook Road completely in the R-2 zone was discussed. Council consent was to refer this matter to the Planning Board for review.

### **Appointments**

Ms. Zamarra moved to appoint Nick Vaglio to the Environmental Commission, Alternate #2 and Daniel Fresolone to the Environmental Commission, Alternate #1. Ms. Greenfield seconded and the motion was approved with six yes votes.

Mayor Canose appointed Ann Wazeter to the Shade Tree Committee.

### **Correspondence**

**Letter from DOT regarding installation of pedestrian improvements at the intersection of Route 202 and Depot Place**, Mayor Canose said we got a response from the letter that Chief Valentine wrote and she signed that was sent to NJDOT about the new crosswalk that goes across Route 202 from the Karate Studio to Depot Place. She said they mentioned in the letter that ADA ramps at the intersection will be constructed at the earliest timeframe possible prior to the 2022 winter season.

**New Jersey State Health Benefits Program**, Mayor Canose said we previously passed a resolution taking a position against the proposed large increase in the State Health Benefits Plan. She said we got a letter from Assemblywoman Dunn who acknowledged receipt of our resolution and stated that she and her colleagues have called for a Special Investigative Committee to investigate the proposed increase in the State Health Benefits Plan and delay the vote on any rate change until 2023 when a full investigation can be concluded.

**Retirement Letter from Chief of Police Kevin Valentine**, the Mayor and Council acknowledge a letter of retirement from Chief of Police Kevin Valentine. Chief Valentine's last working day is scheduled for November 17, 2022.

### **Unfinished Business** - None

### **New Business**

**Crosswalks**, Ms. Zamarra asked about making a request for suggestions to evaluate pedestrian warning lights at various crosswalks on Route 202. Since Route 202 is a state road, the request would need to go to NJDOT. Council consent was given to authorize Mr. Czerniecki to make a request to NJDOT to evaluate our request regarding crosswalks and consider it in their (NJDOT's) upcoming budget.

**RideWise**, Chief Valentine said RideWise is doing a pedestrian campaign and it is set to begin at the five corners intersection.

Ms. Zamarra moved to adopt Resolution #22-186, **AUTHORIZING THE EMPLOYMENT OF AMANDA ANKUDOVICH AS HOUSING/ZONING INSPECTOR**. Ms. Greenfield seconded and the motion was approved by the following roll call vote. Mr. Ambelang, Ms. Greenfield, Ms. McCredie, Mr. McQueen, Mr. Ribeiro, and Ms. Zamarra voted yes.

**Small accessory mechanical equipment setbacks**, Glenn Miller, Fire Chief, said we need to amend the motion made earlier in the meeting regarding small accessory mechanical equipment setbacks. He said in addition to Zoning Officer approval, it also needs to have Fire Prevention approval because the hot box has the Fire Department connection for the sprinkler system and it cannot be blocked by anything such as hedges. Mr. Pidgeon said the Zoning Officer would consult with Mr. Miller regarding the screening on the hot box. There were no objections from council to have the Zoning Officer consult with the Fire Chief on this topic.

**106 Mine Brook Road**, Glenn Miller, Fire Chief, said there was a comment made earlier in the meeting by Joe DeMarco about 106 Mine Brook Road being approved by the Planning Board. He said it has not been approved and it's not a foregone conclusion. Mr. Miller said they are going for preliminary and final this Thursday night at the Planning Board meeting. He said the plan never came to the Fire Prevention Bureau and the Fire Company was never served even though they own the building and the adjoining lot. He said the Fire Company has several concerns about that building and there is a lot to discuss at the Planning Board meeting. Mr. Miller said Mr. DeMarco stated to the public that it was passed, no one showed up, and no one had an opinion, but that's not a fair assessment because that didn't happen.

### **CLOSED SESSION**

It was moved to adjourn to an executive session to consider Attorney/Client Privilege and Contract Negotiations 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 six yes votes.

### **ADJOURNMENT**

The meeting was adjourned at 11:20 p.m.

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