

February 4, 2013

The regular meeting of the Mayor and Council of the Borough of Bay Head was held on February 4, 2013 at 7:00 pm in the Point Pleasant Beach Municipal Complex, 416 New Jersey Avenue, Point Pleasant Beach, New Jersey.

Mayor called the meeting to order and welcomed everyone. He asked everyone to stand and join in the Pledge of Allegiance to the Flag.

Mayor Curtis read the following statement:

Ladies and gentlemen, pursuant to the applicable portions of the New Jersey Open Public Meetings Act, adequate notice of this meeting has been given. This meeting is listed on an annual schedule of meetings of this Governing Body which was posted on the bulletin board at 106 Bridge Avenue, Unit 2 and was published in *The Ocean Star*.

The roll was called for attendance. Present were Mayor Curtis and Councilmember's DeFilippis, Green, Barnes, Glass, Magory, Lyons and Borough Attorney, Jean L. Cipriani.

Mayor Curtis read a Proclamation for Read Across American. A copy is attached.

Mayor Curtis appointed Timothy E. Britt as member to the Bay Head Fire Company No. 1.

Mayor Curtis called for Reports of Standing Committees.

Councilmember DeFilippis, Public Works, Re-construction of Route 35 throughout Bay Head is finally coming to fruition the design has been approved and the contracts awarded in March. Construction will begin on the bay side with underground work and move eastward toward the ocean. The projects will begin with modifications to the sanitary sewer system. It is expected to take 2 ½ years to complete. Designs will be available for public viewing shortly.

Councilmember Green, Parks, Grounds and Recreation, cleaning and re-distribution of sand continues. Contractors are beginning to carry the sand from the north to Harris Street. A map of sand distribution has been provided by our Dune Consultant. We are just requesting patience. Should any information change I will let you know through an instant alert. The state is expected to issue contracts for the Waterway Debris Removal Project on Friday. Bay Head has asked that Scow Ditch and Twilight Lake be included within the projects, scope, but we won't know until Friday whether our request will be granted. The Governor anticipates that the project will be complete by Memorial Day. The DEP is coming to test Bay Head's air quality next week. BPU has information concerning rebates for energy efficient furnaces etc. which may be available.

Councilmember Barnes, Legal and Planning, we have been very busy trying to figure out information from the federal and state authorities as to what we can do to rebuild, and the little information available seems to change weekly. The Council had drafted an ordinance to ease zoning regulations and spur rebuilding, but the ordinance was pre-empted by the Governor's emergency rule and now our ordinance is tabled indefinitely. The Borough will demolish and rebuild the municipal building and police department, but FEMA prohibits police stations in V Zones. Since the ABFEs place the old Borough Hall, and most of the rest of town, in a V Zone, the town is left with few options other than condemning the Barnes-Gambert family home on Bay Avenue and converting that into a police station.

Councilmember Glass, Public Safety, read the Police Activity Report for the month of January. A copy of the report is attached to these minutes. Please remember – do not place garbage bags or debris in front of you house. Tickets are being issued to homeowners who violate this rule.

Councilmember Magory, Public Services, read the Zoning Officer and Construction Official report for the month of January. A copy of the report is attached to these minutes. FEMA has extended the deadline to apply for its Hazard Mitigation Grant Program (404) from February 5th until March 22, 2013. Homeowners must submit their paperwork to the town by March 19th to ensure that the Borough has time to get the package to FEMA. A few important details:

1. There will be no funding for at least six months and not everyone who applies

will be selected – this is a competitive program and Bay Head does not know how FEMA will judge applicants' worthiness.

2. Don't raise your home yet – if you start raising your home before you are approved for this program, you will be ineligible to participate.
3. This program requires the Borough to collect applications and forward them to FEMA. The state may take over the administration of the program, so it is possible that you will have to complete the forms twice. We don't know. Please be patient, but please don't miss the Bay Head deadline.
4. Additional details and the application form are available here tonight or on our web site. Print the form and then scan & email to bhclerk@verizon.net, fax to 732 899-6494 or mail to P. O. Box 248, Bay Head, New Jersey attention Patricia Applegate.

Councilmember Lyons, Finance, had no report.

Mayor Curtis: We will be hold two meetings a month for February and March. The next meeting will be on February 20th at the Bay Head firehouse. The next regular scheduled meeting will be on March 4th at the Point Pleasant Beach Municipal Building on March 4th. There will be no meeting April 1st. The Council will review the recommendations of the Mayor's advisory committee on zoning and will work on a substitute for the ordinance tabled by reason of the state pre-emption. Hopefully we will have more information on February 20th.

Mayor Curtis called for Clerk's Correspondence.

Mrs. Applegate offered a request from the National Multiple Sclerosis Society's New Jersey Metro Chapter for their annual "Coast to Coast" Bike MS Ride on Saturday, May 18, 2013. Councilmember Glass moved to approve the request. The motion was seconded by Councilmember Lyons and passed on roll call vote. YEAS: DeFilippis, Green, Barnes, Glass, Magory, Lyons. NAYS: None.

Mayor Curtis called for Ordinances for Second Reading and Public Discussion and Vote.

Councilmember Barnes offered Ordinance 2013-01 entitled:

AN ORDINANCE OF THE BOROUGH OF BAY HEAD COUNTY OF OCEAN, STATE OF NEW JERSEY AMENDING AND SUPPLEMENTING THE MUNICIPAL CODE OF THE BOROUGH OF BAY HEAD, SO AS TO AMEND CHAPTER 147, ENTITLED "LAND USE"

Councilmember Barnes: Recent action by the Governor nullifies this Ordinance so I move that the Ordinance be tabled. This motion was seconded by Councilmember Glass and passed on roll call vote. YEAS: DeFilippis, Green, Barnes, Glass, Magory, Lyons. A copy of the ordinance is attached to these minutes.

Councilmember Barnes offered Ordinance 2013-02 entitled:

AN AMENDMENT TO ORDINANCE 2012-07 ESTABLISHING SALARY, WAGES, HOLIDAYS, SICK LEAVE, VACATIONS AND OTHER BENEFITS OF EMPLOYEES OF THE BOROUGH OF BAY HEAD, OCEAN COUNTY, NEW JERSEY FOR THE CALENDAR YEARS 2012 THROUGH 2015

Councilmember Barnes moved the ordinance be adopted on second and final passage. The motion was seconded by Councilmember Magory.

Mayor Curtis opened the meeting to the public for a hearing on this ordinance.

There being no comments or questions the public hearing was closed.

The motion was passed on roll call vote. YEAS: DeFilippis, Green, Barnes, Glass, Magory, Lyons. NAYS: None. A copy of this ordinance is attached to these minutes.

Councilmember Magory offered Ordinance 2013-03 entitled:

ORDINANCE OF THE BOROUGH OF BAY HEAD, COUNTY OF OCEAN, STATE OF NEW JERSEY, AMENDING AND SUPPLEMENTING CHAPTER 126, ENTITLED "FLOOD HAZARD AREAS" OF THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF BAY HEAD

Councilmember Magory moved to adjourn the public discussion and vote until March 4th. The motion was seconded by Councilmember Barnes and passed on roll call vote. YEAS: DeFilippis, Green, Barnes, Glass, Magory, Lyons. NAYS: None. A copy of the ordinance is attached to these minutes.

Mayor Curtis called for Unfinished Business. There was none.

Mayor Curtis called for New Business and Resolutions.

Councilmember Barnes offered Resolution 2013-26 authorizing the Borough's participation in the Ocean County "CDL" Drug Testing Services Program provided by Dynamic Testing Services.

Councilmember Barnes offered Resolution 2013-27 authorizing the Borough's participation in the Ocean County Joint Insurance Fund's new Audiometric and Respiratory Testing Monitor/Provider Program provided by Interstate Mobile Care.

Councilmember Glass offered Resolution 2013-28 authorizing execution of a Contract with the Bay Head Chief of Police.

Councilmember Barnes offered Resolution 2013-29 opposing Assembly Bill A-1196.

Councilmember Barnes offered Resolution 2013-30 awarding Peddler's License for the Year 2013.

Councilmember Green offered Resolution 2013-31 authorizing the execution of a Shared Services Agreement with the County of Ocean for the Driving While Intoxicated Enforcement Program.

Councilmember Glass offered Resolution 2013-32 authorizing the execution of a Shared Services Agreement with the County of Ocean for the Prosecutor's Program.

Councilmember Lyons offered Resolution 2013-33 amending Resolution 2012-75 Providing for Salaries and Compensation of Borough Officials and Employees for 2013.

Councilmember Lyons offered Resolution 2013-34 authorizing Payment to Employees for Hours of Accrued Compensatory Time from the Budgetary Provision approved as part of the 2012 Budget under the General Appropriation named as Deferred Compensation Salary and Wages.

Councilmember DeFilippis offered Resolution 2013-35 authorizing the receipt of bids to Reconstruct Wood Walkways to the Beach at Street Ends Due to Superstorm Sandy.

Councilmember DeFilippis offered Resolution 2013-36 authorizing the Receipt of Bids for Roadway Reconstruction at Various Locations Due to Superstorm Sandy.

Councilmember DeFilippis offered Resolution 2013-37 authorizing the Receipt of Bids for Street End Bulkhead and Pedestrian Bridge Reconstruction due to Superstorm Sandy.

Councilmember DeFilippis offered Resolution 2013-38 Rejecting all Bids for Street End Bulkhead and Pedestrian Bridge Reconstruction Due to Superstorm Sandy and authorizing Receipt of Bids for such Services on a Reduced Scope.

Councilmember DeFilippis offered Resolution 2013-39 Awarding a Contract for Cleaning and TV Inspection of Sanitary Sewer Collection System due to Superstorm Sandy to American Pipe Cleaning.

Councilmember Magory moved the above resolutions be adopted. The motion as seconded by Councilmember Green and passed on roll call vote. YEAS: DeFilippis, Green, Barnes, Glass, Magory, Lyons. NAYS: None. A copy of each resolution is attached to these minutes.

Mayor Curtis opened the meeting to the public.

Pat Eckert, 74 Osborne Avenue: Repair the walkways going on the beach – will boulders be placed?

Councilmember DeFilippis: The walkovers will go over the sand and rocks.

Councilmember Green: The design includes rock revetment west of the dune which will be fortification of the street ends. The design is being finalized now.

Ms. Cipriani: You have authorized going out to bid – the specifications are public record and will be available once prepared

Susan Bristol, East Avenue: I am architect and NJIT professor. Twelve of my students are here tonight and are studying Bay Head and will present plans to replace the Borough Hall as part of their work in their Resilient Design course. The students received a warm round of applause.

Richard Swetits, 539 Club Drive: Could you flip the property and locate it nearer to Bridge Avenue with parking underneath.

Mayor Curtis: Nice suggestion. The original Borough Hall was located on the property that is now Scow Ditch Park.

Paul Powell: I have heard there is talk about extending the rock wall and we know how much it saved Bay Head. Most of Bay Head was damaged from the bay and contributing by the breakthrough in Mantoloking. Have there been any lawsuits filed against Mantoloking?

Mayor Curtis: I am not aware of any.

Ms. Cipriani: There have been a lot of discussions.

Rob Moreau, 40 Howe Street: Have all the storm drains been cleaned?

Councilmember DeFilippis: 27 storm drains have been cleaned and others will follow.

Mr. Moreau: the one at Bridge and Lake is full of sand.

Councilmember DeFilippis: I am not aware of it.

Maria Ritter, 36 Karge Street: What are the plans for Twilight Lake?

Councilmember Green: We are requesting that Twilight Lake be included in the Governor's plan for cleanup of waterways. The program will be completed by the end of May. A clarification of the rock revetment – we are hoping to have it from Osborne Avenue to Mathis in Mantoloking. At the present time there is no plan – the beach is privately owned by the BHIA and homeowners. The section from Karge Street to Osborne Avenue owned by BHIA is under consideration.

Ms. Ritter: The Borough would only do the street ends?

Councilmember Green: Yes.

Ms. Ritter: There is still an enormous amount of debris in the street – broken glass, metal and sand.

Councilmember Magory: Yes there are still very small amounts of debris which is the responsibility of the homeowner and should be swept up and bagged. If large debris is placed out a summons will be issued. Homeowners can purchase stickers to place on bags that do not exceed 30lb weight for \$5.00 each. There are still two areas of concrete to be picked up.

Marx Renzulli, 409 East Avenue: We have three structures on our property all damaged and looted twice. No one expected a storm of this magnitude. I really do think the revetment is a necessity. We need to meet with the Governor. We have worked on our home for 40 years and we intend to raise the two homes. ICC Grant is available through your flood insurance. FEMA Hazard Mitigation funds are separate and a more complicated process. The town has to participate and you have to comply building to the ABFE requirements and standards. Let us assume the state will help us – what will they want in return. When we met as oceanfront homeowners we said not to give them one inch.

Councilmember Green: We are working on a town meeting in March to have Army Corps there. Bay Head meets all concerns as to parking and access. The homeowners are asked to sign an easement.

Ms. Cipriani: There are a couple of different issues. It depends on the nature as to what you are requesting. Towns are making request for sea walls which is separate from beach renourishment. They both retain the basic components and easements need to be signed. The initial cost is paid by the federal government but the maintenance is on the property owners. I don't know what the current cost share will be. A lot of things are in play right now.

Rich McGoey, 50 Harris Street: A number of sidewalks have been washed out – is there a plan to replace them?

Councilmember DeFilippis: If is part of an overall project like North Street, they will be done. If individual pieces are broken it is up to the homeowner.

Councilmember Barnes: We can't make the individual homeowners responsible.

Ms. Cipriani: Bay Head has long had an ordinance that makes sidewalks the responsibility of the homeowner. Commercial property owners are responsible. Several years ago the courts stated that you can't do the same for residents. We will have to look at our sidewalks.

Jane Petrillo, 752 East Avenue: I am confused by the rocks, is the town going to take care of putting the rocks at the beach ends and the individual homeowners will be responsible otherwise? I understand the ones there were done in 1962 by the Army Corps.

Mayor Curtis: Yes, at the expense of the homeowners.

Ms. Petrillo: To be affective it has to be consistent. Have you met with the oceanfront homeowners?

Councilmember Green: We have helped to facilitate the permit to place the rock revetment.

Ms. Petrillo: I have heard some won't participate by giving an easement.

Ms. Cipriani: The flood insurance rates are set by how close you comply to their standards. The community rating also comes into play.

Councilmember Magory: Homeowners may want to consider the 404 program which is the FEMA Hazard Mitigation Program.

Ms. Petrillo: In the future – how many homeowners are considering to place the rocks?

Mayor Curtis: The placement of rocks is a BHIA issue. They should have a meeting. The Borough has no authority on the beach at all. We can't make a homeowner do it or pay for it.

Mr. Renzulli: Can the BHIA issue bonds?

Verity Frizzell, 1606 Bay Avenue: Has grandfathering expired?

Ms. Cipriani: Subsidized rates do not apply. We have been told in June the final map will be released with 18 month period for publication, public hearing and adoption.

Dr. Gail Zimmerman, 50 Mount Street: I was told, by someone in another town, that homes built prior to 1974 were grandfathered as to complying with elevations – is that true?

Ms. Cipriani: That is not true. All grandfathering has been taken out – that is no longer the case.

Dr. Zimmerman: My house meets the height but it is not on pilings.

Ms. Cipriani: Then you don't meet the standards.

Councilmember Magory: You could use helical piles.

Dr. Zimmerman: What about the historical concerns?

Councilmember Green: That concerns many of us in Bay Head. Historic is just another layer and we are hoping there are some guidelines from Historic Preservation to help retain historic structures.

Dr. Zimmerman: The regulations appear arbitrary – is there anything we can do to help them reconsider?

Mayor Curtis: I wrote a letter opposing these rules as did other Mayor's on the barrier island. Towns are doing everything to get some relief. We had a meeting with the Governor's office and it is on

Menendez and Lautenberg plate. This is a federal thing. As an individual bombard the Governor and legislatures.

Dr. Zimmerman: Do we have elevations of the curb?

Mayor Curtis: No, you can obtain a Flood Elevation Certificate for around \$250.00.

Bill Gage, 115 Bridge Avenue: I am a member of BHIA – first we have to extend the rock wall. We have spoken to some homeowners but not all are in agreement. The cost to extend will be ¼ million dollars. We are looking into donations for this project.

Dr. Renzulli: I have donated to BHIA for the groins.

409 Lake Avenue: I need to submit a letter stating that my property is more than 50% damaged to receive a letter to submit to FEMA. What figure is used to determine the 50%?

Ms. Cipriani: The assessed value.

George Spiker, 70 Osborne Avenue: The ocean and the concern for expanding the rock revetment is not the only source of flooding in our town. The bay into Twilight Lake contributed to the flood of most of the homes during Sandy. BHIA doesn't deal with the bay. Are we dead in the water as to finding ways to diminish water from the bay? The damage from Irene came mostly from the bay. I don't know what to do about it except to try and find ways to diminish the flow through Scow Ditch.

Councilmember Green: Remediation of the lake is of equal importance. We will be removing the sand but right now we need to get the debris out. Dredging is planned for the future. I think you are talking of damming. We do not own Twilight Lake nor have we entertained that idea.

Mr. Spiker: e focus on what is most recent – what about the next hurricane that looks more like Irene than Sandy? I just want everyone aware of the source of flooding that comes from the bay.

Mayor Curtis: This is not a new request. Residents on Clayton, Lake, Club are all affected a lot more often than the ocean front. How can we protect the bay – those homeowners have more water more often. We don't have a solution to correct the flooding but they are not forgotten. Our plan now is to clean it up.

Councilmember Green: The only solution at this time to address the backing up of the bay is raising the houses.

Lauren Payne, 47 Mount Street: I came confused and now I am more confused. The 50% rule – what is it based on?

Mayor Curtis: Over 50% of the current assessed value of your home.

Ms. Cipriani: If the damage is 50% more than the assessed value you will have to bring your home to code which includes complying with the flood elevation. You can repair your home and move back in with a temporary certificate of occupancy until you raise the home to comply with the standard.

Jamie Paradise, 436 Club Drive: If you apply for the ICC \$30,000 you have to prove to them that you are more than 50% damaged. If you say that you are then you will be required to bring it up to current code. The town is disputing the V zone and has encouraged all to write to FEMA themselves.

There being no further comments Councilmember Lyons moved to approve the vouchers for payment, which motion was seconded by Councilmember Green and passed on roll call vote. YEAS: DeFilippis, Green, Barnes, Glass, Magory, Lyons. NAYS: None. A list of the vouches is attached to these minutes.

The meeting was adjourned.

Patricia M. Applegate, RMC
Municipal Clerrk

William W. Curtis, Mayor

