

June 3, 2013
Regular Meeting

The regular meeting of the Mayor and Council of the Borough of Bay head was held on June 3, 2013 at 6:00 pm in the Bay Head Fire House, 81 Bridge Avenue, Bay Head, New Jersey.

Mayor Curtis called the meeting to order and welcome 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 Meeting Act, adequate notice of this meeting has been given. This meeting was posted in the lobby of the Municipal Office at 106 Bridge Avenue on May 28, 2013 and published in the Ocean Star on May 31, 2013

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

Councilmember Green moved to approve the regular and executive minutes of April 17, 2013 and the regular minutes of May 6, 2013. The motion was seconded by Councilmember Glass and passed on roll call vote. YEAS: DeFilippis, Green, Barnes, Glass, Magory, Lyons.

Councilmember Glass offered the following Resolution to go into executive session.

WHEREAS, the Open Public Meetings Act, N.J.S.A. 19:4-12, permits the exclusion of the public from a meeting in certain circumstances; and

WHEREAS, this public body is of the opinion that such circumstances presently exist.

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Bay Head, in the County of Ocean, State of New Jersey, as follows:

1. The public shall be excluded from discussion of actions upon the hereinafter specified subject matter.
2. The following subject involve matters of attorney/client privilege:

Contract – Bay Head Fire Department

3. It is anticipated that the above stated subject matter will be made public

Six Months

4. This Resolution shall become effective immediately.

Councilmember Glass moved this resolution be approved. The motion was seconded by Councilmember Lyons and passed on roll call vote. YEAS: DeFilippis, Green, Barnes, Glass, Magory, Lyons. NAYS: None.

The Governing Body went into Executive session at 6:04 pm. At 7 pm the Governing Body came out of Executive session and resumed the regular meeting.

Mayor Curtis: We started at 6 pm and went into closed session so we will now continue with the agenda. The first item is the 2013 Municipal Budget.

Councilmember Lyons introduced Robert A. Hulsart, Auditor, from the firm of Robert A. Hulsart & Company.

Mr. Hulsart: This budget is different from the normal budget due to Hurricane Sandy. It has to be set up a certain way as per the Division of Local Government Services. After Superstorm Sandy hit, the council approved an emergency appropriation of \$3,300,000 which has to be paid back over three years. We have one-fifth of the amount of the emergency raised in this budget, which is around \$660,000. However, that one-fifth is actually being offset by funds from FEMA. FEMA is expected to pay a portion of this, but at this point we don't know exactly how much they are going to pay – it's either going to be

75% or 90% of the debris and operation expenses. This will not be determined, until they determine the entire amount for the state of New Jersey. The budget also took into account a Federal Community Disaster Loan in the amount of \$965,000. The Borough applied for this loan based upon a projection of what would happen in 2013 through 2017. With the loss of revenue, the Borough was awarded the loan. And that loan is in the budget in full. The money from the loan is supposed to help the Borough over the next three to four years, to offset the loss of rateables and revenues. If the projection is accurate, the Borough will not have to pay back most of the loan. However, if the picture is better than projected and the Borough does not lose as much in rateables and revenue, some of the money will have to be paid back. Because of this the entire loan is in the budget as a receivable, which will be drawn from as needed. The budget is also reduced by the anticipated revenue in the same amount of money - \$265,000. The idea of that is it will produce \$7 to \$800,000 of revenue at the end of the year and what we're supposed to do is draw that down over the next three to four years to offset the losses in those years and try to level the tax rate. Hopefully that's what we will be able to do and we will be able to level the rate. I think we will be able to control it.

Mayor Curtis opened the meeting to the public on the 2013 Budget.

Richard Swetits, 539 Club Drive: I assume a lot of the bills have been paid.

Mr. Hulsart: Everything has been paid out of the emergency. It is not coming out of the loan.

Arigo Conti, West Lake Avenue: When can we see the budget?

Municipal Clerk: It was advertized on May 17, 2013 in the Ocean Star and posted on the web site. Copies are available at the municipal office located at 106 Bridge Avenue.

Mayor Curtis: How do we compare with other towns?

Mr. Hulsart: We have done very well considering. All have had the same issues. Not all costs can be planned for.

There being no further comments or questions Mayor Curtis closed the public hearing on the 2013 Budget.

Mr. Hulsart: When we introduced the budget the loan had not been approved so we will amend the budget prior to adoption.

Councilmember Lyons offered Resolution 2013-83 amending the approved Budget by a reduction of \$733.00 and moved it be adopted. The motion was seconded by Councilmember Green and passed on roll call vote. YEAS: DeFilippis, Green, Barnes, Glass, Magory, Lyons. NAYS: None. A copy of the resolution is attached to these minutes.

Councilmember Lyons offered Resolution 2013-84 adopting the 2013 Municipal Budget and moved it be adopted. The motion was seconded by Councilmember Green and passed on roll call vote. YEAS: DeFilippis, Green, Barnes, Glass, Magory, Lyons. NAYS: None. A copy of the resolution is attached to these minutes.

Mayor Curtis called for Reports of Standing Committees.

Councilmember DeFilippis, Public Works, had no report.

Councilmember Green, Parks, Grounds and Recreation: We will be given a date, within the next few weeks, for dredging to begin on Twilight Lake which is part of the Barnegat Bay clean up. We will get it out to the public as soon as we know. They are trying to finish the wet debris removal and once this is complete the dredging will begin.

Councilmember Barnes, Legal and Planning: We are working to see how much insurance coverage we can get – we are reviewing the policy that underwrites JIF. The goal is that our taxes don't go up.

Councilmember Glass, Public Safety, read the Police Activity report for the month of May. A copy of the report is attached to these minutes. The police are patrolling the beach with our new ATV. We ask everyone to be careful, call the police if you see anything unusual and be patient and kind to everyone.

Councilmember Magory, Public Services, read the Zoning and Construction report for the month of May. A copy of the report is attached to these minutes. We are scheduling a Bulk Pick-Up for the first of July. As soon as a date is chosen we will post it on the web site and send out an announcement on our Alert System.

Councilmember Lyons, Finance, had no report.

Mayor Curtis: Today the Governor's mobile unit was here from 9 am to 5 pm – it was well attended and well received. Some things have changed so take a look – www.renewjerseystronger.org.

Mayor Curtis called for Ordinance for Second Reading, Public Discussion and Vote.

Councilmember Lyons offered Ordinance 2013-06 entitled:

AN ORDINANCE OF THE BOROUGH OF BAY HEAD, OCEAN COUNTY, STATE OF NEW JERSEY, TO EXCEED THE 2013 MUNICIPAL BUDGET APPROPRIATIONS LIMITS AND TO ESTABLISH A CAP BANK N.J.S.A. 40A:4-5.14

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

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 to adopt 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 Ordinance, First Reading.

Councilmember Lyons offered Ordinance 2013-07 entitled:

AN ORDINANCE OF THE BOROUGH OF BAY HEAD, OCEAN COUNTY, STATE OF NEW JERSEY, TO PURCHASE EQUIPMENT AND RENOVATIONS FOR THE BAY HEAD FIRE DEPARTMENT FROM INSURANCE PROCEEDS RECEIVED DUE TO HURRICANE "SANDY"

Councilmember Lyons moved to approve this ordinance on first reading, which motion was seconded by Councilmember Glass. The motion passed on roll call vote. YEAS: DeFilippis, Green, Barnes, Glass, Magory, Lyons. NAYS: None. A copy of this 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 2013-72 appointment of Prosecutor.

Councilmember Barnes offered Resolution 2013-73 appointment of Conflict Prosecutor.

Councilmember Barnes offered Resolution 2013-74 approval of ABC License for the Bay Head Yacht Club.

Councilmember Barnes offered Resolution 2013-75 approval of ABC License for And Bottles Too Inc.

Councilmember Barnes offered Resolution 2013-76 authorizing entry into Agreement with Dynamic Testing Service.

Councilmember Glass offered Resolution 2013-77 appointing Kasey Collins as Part Time SLEO II.

Councilmember Green offered Resolution 2013-78 appointing Kelly Ann Lidon as Assistant Summer Recreation Program Coordinator.

Councilmember Green offered Resolution 2013-79 awarding a contract to Therapeutic Fitness, LLC for the provision of fitness activities for the Bay Head Summer Recreation 2013 Program in association with the Mayor's Wellness Campaign.

Councilmember Lyons offered Resolution 2013-80 authorizing refunds of Overpayments of Property and Sewer Taxes.

Councilmember Lyons offered Resolution 2013-81 authorizing payment to Employees for Hours of Accrued Compensatory Time from the Budgetary Provision Approved as Part of the 2013 Budget Under the General Appropriation Named as Deferred Compensation Salary and Wages.

Councilmember Barnes offered Resolution 2013-82 awarding Peddler's License to Brendan J. Kalin as an added driver to issued License 2013-02.

Councilmember Lyons offered Resolution 2013-85 authorizing Promissory Note for Community Disaster Loan for \$965,512.00.

Councilmember Green offered Resolution 2013-86 amending Resolution 2012-75 providing for Salaries and Compensation of Borough Officials and Employees for 2013.

Councilmember Lyons offered Resolution 2013-87 authorizing the Chief Financial Officer to make cash advances in an amount not to exceed \$100.00 per request.

Councilmember Barnes offered Resolution 2013-88 requesting the Director of the Division of ABC to act upon the request of Seaurtis, Inc., t/a Central Market, for the renewal of its Liquor License.

Councilmember Barnes moved the above resolutions be adopted. The motion was seconded by Councilmember Glass and passed on roll call vote. YEAS: DeFilippis, Green, Barnes, Glass, Magory, Lyons. (Councilmember Lyons and Green abstained from Resolution 2013-74 as they are members.) A copy of each resolution is attached to these minutes.

Mayor Curtis opened the meeting to the public.

Stan Niedzwiecki, 42 Johnson Street: Several resolutions just passed approving ABC License – has the town gained any increase in the fee charged?

Mayor Curtis: No.

Mr. Niedzwiecki: Don't you think it would help decrease our burden?

Mayor Curtis: Council will look into it.

Mr. Niedzwiecki: The resolution amending salaries – what is the increase?

Municipal Clerk: There is no percentage increase the resolution is to add the new summer recreation employees.

James Chiriaco, 56 North Street: Where do we stand with the roadwork on North and Lake?

Councilmember DeFilippis: We will be repaving – the concrete work was done first and the roadway will follow. The final coat will not be done until the fall.

Mr. Chiriaco: The storm drains are filled with sand.

Councilmember DeFilippis: They will be addressed. We lost the entire surface of the road during Sandy. We had to rebuild the road base.

Pat Eckert, 74 Osborne Avenue: We just got back to our home and we are very proud of all our neighbors have done to get their properties back in shape. We do have an issue with the sewer water bubbling up on our sidewalk, flooding our new plantings. The state was there and was going to place a camera down to find the problem but to our knowledge that has not happened. Our hope is the county would address this issue.

Wayne Wilson, 67 Osborne Avenue: What is the dialogue with the county and Point Pleasant – are you talking to the Mayor of Point Pleasant Beach?

Mayor Curtis: I am always discussing issues with him.

Mr. Wilson: We need progress reports after those meetings.

Bob Polizzotto, 420 West Lake Avenue: Bay Head Council was elected to help us and we need your help to protect our properties. It is your responsibility and we need you to do something – what have you done concerning the flooding of Twilight Lake and Scow Ditch? What procedures are you going to do – you need to communicate with the state. We met with FEMA today concerning the published Advisory Map. What is Bay Head Council doing to challenge those maps?

Mayor Curtis: I have been to Trenton and talked to everybody. Our hope is to get the V Zone shrunk. We are in constant touch with the state and what their plans are for Twilight Lake. Project work orders have not been issued. Part of the problem is not just sand removal but dredging, which will answer some of the flooding problems on Twilight Road and West Lake Avenue.

Mr. Polizzotto: I suggested flood gates to help keep the waters out of Twilight Lake – has that been considered?

Ms. Cipriani: I understand – we have to work with the State of New Jersey because they claim it.

Mr. Polizzotto: We need to call them and get them moving – we don't hear what is being done.

Councilmember Green: The debris has been removed and we are waiting the removal of the sand. We are not advocating flood gates. We can't insist that the State move on it until we see that we have a real case for it. We need to wait and see how the dredging goes. The pump station in Point Pleasant, Lake of the Lillies and Lake Lousie all affect Twilight Lake.

Mr. Polizzotto: So it is a wait and see what happens after the dredging takes place.

Mr. Polizzotto discussed with Council the affect of flooding having nothing to do with the sand removal from Twilight Lake.

Paul Aimes, 46 Osborne Avenue: Sounds like we have to wait until there is another terrible storm before something is done. We don't have the rock revetment for protection. Are you saying we don't have a case to get something done?

Councilmember Green: The State of New Jersey has Twilight Lake and Scow Ditch on its radar. Things are a process – we are doing everything we can. There were problems in Twilight Lake before Sandy.

Mr. Aimes: The question is do we have to wait? Our best protection would be rocks.

Mayor Curtis: Beach renourishment can only help.

Mr. Aimes: Are we the only town that has a rock revetment?

Mayor Curtis: Yes, there is a sea wall in Monmouth County.

Mr. Aimes: The best for Bay Head would be completion of the rock revetment and beach renourishment.

Mayor Curtis: Anybody can come with me to meet with the Army Corps. They have a project and it is hard to get them to listen. The comments made the night of the beach renourishment meeting were right on.

Mr. Aimes: Has the easement been revised?

Mayor Curtis: Not yet – we are still working on it.

Mr. Polizzotto: The lack of a rock revetment is a major problem for North Street. Is the town working with BHIA?

Mayor Curtis: We are working in partnership with them.

Karen Chiriaco, 56 North Street: We have had a problem with water backing up in our garage for a while definitely preSandy.

Councilmember Green: Sandy had a further negative affect.

Mr. Paulus, 206 Lake Avenue: Two things contribute to the flooding on Osborne Avenue – heavy rain and an active flooding problem due to the pumping station. Water constantly bubbles up from the catch basin. Please keep at the county because the problem hasn't gone away.

Councilmember DeFilippis: How long have you lived there?

Mr. Paulus: 30 years.

Councilmember DeFilippis: We now have soil where water was – the water is now only inches deep where it was feet.

Mr. Polizzotto: I am a licensed Engineer in the State of New Jersey and Florida. If you clean out the sand it will hold more water but if you make it deeper it will just bring in more water from the bay.

Mr. Paulus: Everyone has done a great job cleaning up their sidewalks but there is still a need to dispose of the glass and nails. I would suggest everyone help their neighbors.

Scott Clayton, 37 Howe Street: Excellent meeting. The other day we tried to get DOT or someone down to take a look behind our property. It is like a lake from the runoff. It is very complicated and everyone wants a quick fix.

Mayor Curtis: DOT was invited to the meeting held recently at the Fire House.

Rick Magoy, 50 Harris Street: It was a great meeting on the water front – dune system – very worthwhile.

Marge Schweickert, 70 Osborne Avenue: Will the Route 35 project help the flooding on Osborne Avenue?

Councilmember DeFilippis: DOT are installing two pump stations in Bay Head – one on Mount and one on Goetze Street. The water will be directed to a flow patten that is more controllable. The project on Main Avenue will not start until after Labor Day but the pumping station work will start late June.

Ms. Schweickert: The county came out on Osborne – drove through the easement and promised to come back – never to be seen again. We don't see the report of what has been done – should we contact the county?

Councilmember DeFilippis: I recommend that you do that.

Wini Applegate, 560 Lake Avenue: The curbs are littered with glass, nails for 7 months now. Snow removal is the homeowners responsibility – is this debris also their responsibility? I have three grandchildren who are bare foot in the summer. There are also dog walkers – what can we do to get them to clean up their property? It is time that we really got this done. There is also a lot of debris all around the storm drains – it is a real problem.

Mayor Curtis: Yes it is very important – summonses have been issued to those who have not cleaned up their property.

George Schweickert, 70 Osborne Avenue: This is about how we can help you. We have a group of 90 residents who are focused on rock revetment, flood mitigation of Twilight Lake and street flooding. I am going to be sending you a letter – we are doing this because we don't hear what progress you are making – especially the flooding on Osborne Avenue. We are looking to help especially the rock revetment. You have told us time and time again you don't have anything to do with the beach.

Mayor Curtis: That is correct – we don't own the beach but we are trying to help BHIA to install the rock revetment. I have always been open to listen to any suggestions residents have. I have even given my

cell phone number to everyone. Come in and talk to us – we are willing to listen and do anything we can to help.

Councilmember DeFilippis: What have you heard from BHIA and the other homeowners on the north end of the beach?

Mr. Schweichert: The vast majority are willing to pay for the rock revetment. Our group is willing to contribute to get the rock revetment done. I understand you need a permit and funding which all takes time. I believe we can move faster than this.

Councilmember Green: No one can put rocks on the beach without DEP approval.

Mayor Curtis: When we got the emergency permit for the south the north could have joined in.

Councilmember Green: I would suggest you meet with BHIA.

Mr. Schweichert: We are meeting with them.

Councilmember Green: I have been told that DEP is less likely to issue the permit without the easements being signed. This is just part of the universe we are all dwelling in now.

Ms. Cipriani: The DEP and State desire to have the beach renourishment program go forward. The Governor has made this very clear.

Mr. Schweichert: I don't know what the percentage is for those who will sign the agreement. Most homes survived very well – but the north end was devastated. We sent 90 letters to various government officials and we will double that to 180 letters. This is not small potatoes anymore.

Mayor Curtis: You have to come in and talk to me, one or all 90 of you. We will work out a plan with the best approach.

Mr. Niedzwiecki: Part of the discussion has been featured on Osborne and Lake Avenue. The flooding there is not our problem but Ocean County and New Jersey Transit. NJ Transit has a main flow drain that needs to be cleaned out and they have not been mentioned tonight – I hope it is not forgotten.

Mr. Clayton: We have property in Mantoloking and Bay Head – I know how challenging it is to get the beach renourishment in Mantoloking. It is not an easy conversation to have. I compliment our council and our residents.

Mr. Aimes: At the beach renourishment meeting, the conversation was more about the public money than on the best plan. In your conversation with the Governor, in asking the homeowners to sign the easement please state that we want to make it better which I believe would also be the placement of the rocks on the north end.

Mayor Curtis: We are also looking for the best plan. We are trying to get Army Corps to address the wording of the agreement.

Jane Ridolfi, 32 Bridge Avenue: When can we expect the approved minutes on the web site?

Mayor Curtis: Soon.

Mr. Wilson: How much power does our Governor have concerning eminent domain?

Ms. Cipriani: The State of New Jersey has the power of eminent domain – in public purpose easement. The huge issue is payment and the value of that easement. The State of New Jersey has the authority but are more likely to push the county or the municipality.

Mayor Curtis: It is not well received with this governing body and I will be removed from office before I would authorize eminent domain. I think there is a better way to do it and then everyone will sign it. We have 120 properties on the ocean front and if we have 20% it would bankrupt this town. Market value up there is a million plus. If we do this correctly it will get done.

Mr. Wilson: You are doing a great job we just need more feedback.

Mr. Clayton: We have had great success with our volunteer groups. We have applications here tonight and also at Borough Hall. We presently have two groups and possible three. If you know neighbors who can't get here pick one up for them.

Mr. Swetits: Could there be a small dumpster placed at the recycle center for a bag or two of garbage to help dispose of the debris on properties. We have the volunteers but there is no place to take it once it is picked up.

Mayor Curtis: We can look into it but at this time the removal is up to the homeowner.

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

The meeting was adjourned.

Patricia M. Applegate, Municipal Clerk

William W. Curtis, Mayor