

November 6, 2017

The regular meeting of the Mayor and Council of the Borough of Bay Head was held on November 6, 2017 at 7:00 pm in the New Borough Hall, 83 Bridge Avenue, Bay Head, New Jersey.

Council President Green called the meeting to order and welcomed everyone and asked everyone to stand and join in the Pledge of Allegiance to the Flag.

Council President Green 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 a schedule of meetings of this Governing Body which was posted on the bulletin board at 83 Bridge Avenue on March 13, 2017 was published in *The Ocean Star* on March 17, 2017 and the *Asbury Park Press* on April 12, 2017.

The roll was called for attendance. Present were Councilmembers Green, Hein, Barnes, Glass, Magory, Lyons and Jean Cipriani, Borough Attorney. Mayor Curtis arrived at 7:30 pm.

Councilmember Barnes moved to approve the regular and executive minutes of October 2, 2017. The motion was seconded by Councilmember Glass and passed on roll call vote. YEAS: Green, Hein, Barnes, Glass, Magory, Lyons. NAYS: None.

Councilmember Glass offered Resolution 2017-145 appointing Tyler J. Iannarone as Full-Time Provisional Police Officer and moved its adoption. The motion was seconded by Councilmember Hein and passed on roll call vote. YEAS: Green, Hein, Barnes, Glass, Magory, Lyons. NAYS: None.

Ms. Cipriani, Borough Attorney administered the Oath of Office to Tyler J. Iannarone.

Council President Green called for Reports of Standing Committees.

Councilmember Green, Parks, Grounds and Recreation, had no report.

Councilmember Hein, read the Construction Official, Zoning and Rental/Transfer Reports for the month of October. Copies of the report are attached to these minutes.

Councilmember Barnes, Legal and Planning: An update concerning Affordable Housing. This spring the ruling was to hold the towns responsible for their obligation which accumulated during this gap period from 1999 to 2025. There is no longer an enforcement agency. Individual Judges decide on each town. Towns are still objecting. Nothing has happened here but we are keeping an eye on it. We do have a special Counsel. Tonight a resolution will be offered to extend the 2% cap. The reason Municipalities like the cap is that it keeps our financial burden lower – hopefully the 2% cap will continue. Just some information as to

what we do in Executive Session. The Sunshine Law doesn't allow more than three members of the Governing Body to meet. Over the last couple of months we have gone into Executive Session to discuss personnel issues concerning benefits and salaries. I hope this clarifies that avenue we have to discuss issues as a group.

Council President Green: Do we still employ an attorney for COAH?

Councilmember Barnes: Yes, Jeffrey Surenian, who is an expert in Affordable Housing.

Council President Green: Do we receive reports from him?

Councilmember Barnes: Yes, on a quarterly basis – the bills haven't been that bad because the cost is shared with a number of other towns he represents.

Councilmember Glass, Public Safety, read the Police and OEM report for the month of October. A copy of the report is attached to these minutes.

OEM – Tip of the Month:

Many holidays are approaching quickly, so is the winter season. If you are planning to travel make sure that your car is ready and carry extra emergency supplies.

Councilmember Magory, Public Works: Later a resolution will be offered to submit a grant application to NJ DEP for work to be done on Lake Avenue. The work at the Recycle Center is moving along. All the concrete work is complete and the balance of the work will take approximately two days. We got pushed behind because of some issues the contractor had on some other job. It will be done shortly. The poles on Clayton Avenue will be moved by the utility companies shortly. We had a little bit of a hold up because a homeowner requested a modification to make a change on his property and to do so will require an easement from him.

Council President Green: The grant on the west side of Lake Avenue – how does this move forward? Has the Environmental Commission weight in on that? Will there be a town meeting about it?

Councilmember Magory: That grant would be for the rail to the town center, providing a sidewalk on the west side of Lake Avenue. Before any plans are finalized we like to see if we can get some funds. Also given the height it would help with the flooding.

Council President Green: I know you have applied for a grant for the west side of Clayton Avenue. Where are we with that?

Councilmember Magory: The west side of Clayton Avenue is a fill in the blanks project – we will install sidewalks where none exist. The Borough did receive a Federal Grant but the cost would be more than the value of the grant. The Borough has decided to take the cost on.

Council President Green: What is the cost of that?

Councilmember Magory: Approximately \$90,000.00.

Council President Green: You will have a meeting and all will have input?

Councilmember Magory: Yes. I have spoken to the homeowners as to which poles will be moved. I have advised them to move sprinklers, fences and shrubs to be moved.

Councilmember Hein: Poles have to be moved to install the sidewalks. The utility companies will pay for the movement of the poles. The relocation of the poles only impacts two homeowners.

Council President Green: Nothing on the east side?

Councilmember Magory: Correct – nothing at this time.

Councilmember Lyons, Finance: Last month I reported we are in the budget season. We have budgets from most departments. Once we have all of them plus the pension obligation and cost from OCUA finance will go over the numbers. We have to reconcile with the income we have – it is a give and take and we are about to go into that process. We are shooting for a February adoption again.

Technology Committee: Our new website is up and running. Police have their own website but it is now in the municipal website. It is mobile friendly and there are a number of things you can do. We are intergrading GovPilot which allows you to report a concern such as overgrowth etc. which will be direct to the specific department to handle it. At present there is a map which allows you to get information on all properties in the Borough. We will be adding layers to the map such as business district etc. Also soon you will be able to submit pictures which will be posted once reviewed.

Mayor Curtis arrived.

Councilmember Hein: January 2018 is Radon Action Month. I am working to get grant approval to provide test kits to council and residents to test their homes. I will have more information at the next meeting.

Councilmember Barnes: I would like to thank Mayor for his participation in the Ocean County Mayors form at Ocean County College recently. It was a great opportunity to learn what is going on in each town.

Mayor Curtis: It was a great opportunity to also learn what other towns are doing. As we are all aware the drug situation is pretty prevalent in Ocean County.

Mayor Curtis called for Clerk's Correspondence.

Ms. Applegate offered the following request:

Application for Raffles License from All Saints Church Women's Guild for an event to be held at the church on November 11th from 10 am to 3 pm

Request from Jersey Shore Relay for permission to have participants run through Bay Head on Saturday, April 21, 2018 to benefit Special Olympics

Request from National Multiple Sclerosis Society's New Jersey Metro Chapter to have bikers ride through Bay Head on Saturday, May 19th and Sunday, May 20th 2018 participating in their annual Bike MS: Coast The Coast Ride

Request from the Bay Head Business Association for their annual Christmas in Bay Head celebration on December 1, 2, 3 2017 with Musical Program at Charlie's on December 2nd

Councilmember Green moved to approve the request which was seconded by Councilmember Glass and passed on roll call vote. YEAS: Green, Hein Barnes, Glass, Magory, Lyons. Nays: None.

Mayor Curtis called for Unfinished Business.

Councilmember Hein: Vendor Ordinance. We have two restaurants in town that would prefer not to have a hot food vendor in front of their establishment. I would like to propose to go back to two ice cream vendors operating on East Avenue only. Can we do this tonight?

Ms. Cipriani: Yes an Ordinance can be introduced by Title.

Councilmember Hein offered Ordinance 2017-08 entitled:

ORDINANCE OF THE BOROUGH OF BAY HEAD, COUNTY OF OCEAN,
STATE OF NEW JERSEY, AMENDING AND SUPPLEMENTING CHAPTER
177 OF THE BOROUGH CODE ENTITLED "PEDDLING AND SOLICITING"

Councilmember Hein moved this ordinance on first reading, which motion was seconded by Councilmember Magory.

Councilmember Green: I feel we only need one ice cream vendor in town.

Councilmember Barnes: I would like some input from the residents – how many do you want and what do you want them to sell?

Mayor Curtis opened the meeting to the public for discussion on this Ordinance.

Dennis Shaning, 542 East Avenue: I agree with Council President Green, one is sufficient. One would also solve the problem of leap frog with each other, the tunes they play and the ringing of the cow bells to attract customers. One would be a nice relief.

Diane Cornell, 349 Lake Avenue: I liked it when the ice cream truck went around the neighborhoods. I don't have an issue with them on streets other than East Avenue. If the kids missed them at the beach then they would be able to purchase from them at their home.

Councilmember Hein: I talked to both of the vendors who were here last year. They only go off East Avenue if they get hired for a private party. They have no interest in going up and down streets other than East Avenue.

Council President Green: I am glad Mr. Shaning brought up the cow bell – it reminds me of the idling of the truck when they go up to ring the bell. It is very bad for them to leave the truck. I know the police try to enforce that but I feel it is very dangerous.

Helene DeFilippis, 78 Goetze Street: Will this eliminate food vendors?

Councilmember Hein: Yes, it would eliminate hot food vendors and only allow two ice cream trucks.

Ms. DeFilippis: I agree.

Stan Niedzwiecki, 42 Johnson Street: I feel you should give some consideration to trucks parking so close to the corners and putting the kids in danger.

Councilmember Hein: We looked at every single intersection with the police and figured out the safest place for the trucks to stop. It was looked at but we can look again. The trucks can only stop on the west side of East Avenue.

Ms. Cipriani: The location has to be approved by the police department.

Joseph Deamicis, 1614 Bay Avenue: How would you determine who gets the license if you presently have two and you go to one?

Councilmember Hein: It is a first come basis.

Councilmember Glass: As a business person, I like the way the ordinance is now. It allows for three vendors. I am against lowering the number to two. Could we restrict the vendors from the Bridge Avenue business district?

Councilmember Hein: I thought about that and I talked to the owner of the hot truck. He doesn't want to move very much. I would like to keep the motion as is.

The motion passed on roll call vote. YEAS: Hein, Barnes, Magory, Lyons. NAYS: Green, Glass. A copy of this ordinance is attached to these minutes

Mayor Curtis called for New Business and Resolutions.

Ms. Cipriani: Resolution 2017-138 is to be held.

Council President Green: I would like to hold Resolution 2017-136 for discussion.

Councilmember Lyons offered Resolution 2017-134 Transfer in the 2017 Municipal Budget.

Councilmember Glass offered Resolution 2017-135 authorizing the submission of the 2017 Statewide Grant Drive Sober or Get Pulled Over Year End Holiday Crackdown.

Councilmember Hein offered Resolution 2017-137 authorizing the participation with Ocean County in a Community Rating System Users Group.

Councilmember Glass offered Resolution 2017-139 appointing Class II Special Law Enforcement Officers for the Borough of Bay Head and authorizing attendance at the Ocean County Police Academy.

Councilmember Lyons offered Resolution 2017-140 providing for the insertion of a Special Item of Revenue in the Budget of the Borough of Bay Head pursuant to N.J.S.A. 40A:4-87 (Chapter 159, P.L. 1948) – FEMA Superstorm Sandy - \$108,150.00.

Councilmember Lyons offered Resolution 2017-141 providing for the insertion of a Special Item of Revenue in the Budget of the Borough of Bay Head pursuant to N.J.S.A. 40A:4-87 (Chapter 159, P.L. 1948) – Body Armor Fund - \$1,142.76.

Councilmember Hein offered Resolution 2017-142 appointing Scott E. Loftus as Part-Time Code Enforcement Official for the Borough of Bay Head.

Councilmember Lyons offered Resolution 2017-143 amending Resolution 2017-25 providing for Payment of Salaries and Compensation of Borough Officials and Employees for 2017.

Councilmember Barnes offered Resolution 2017-144 urging the State Legislature to extend the 2% Cap on Police and Fire Arbitration Contract Awards.

Councilmember Glass offered Resolution 2017-146 amending Resolution 2017-23 providing for Salaries and Compensation of the Police Department for 2017.

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

Councilmember Magory offered Resolution 2017-136 authorizing the submittal of a Grant Application and executing a Grant Agreement with the NJ Department of Transportation for the Reconstruction of Lake Avenue Project. The motion was seconded by Councilmember Hein.

Council President Green: We spoke about this earlier.

Councilmember Magory: This has nothing to do with the sidewalk on Lake Avenue. This is for the roadway on Lake Avenue.

Council President Green: There is a lot of sidewalk installation being discussed and the residents have a lot of questions.

The motion passed on roll call vote: YEAS: Green, Hein, Barnes, Glass, Magory, Lyons. NAYS: None. A copy of the resolution is attached to these minutes.

Mayor Curtis: This is where we will be voting tomorrow. Public works will be setting up the room after this meeting.

Mayor Curtis opened the meeting to the public.

Diana Kitchen, 178 Cranberry Avenue: Howe Field – I pass it every day. Is there a problem with using the field because of the waste material that was stored there?

Mayor Curtis: It is unsafe because of the stones in the fill that was dumped there. With the use of Ash Britt and Agate the dirt is so compacted down that the drainage is affected. We are in the process – it needs to be scraped with new top soil layer and grass planted.

Ms. Kitchen: Lake Avenue sidewalk – do we get a say in it?

Mayor Curtis: Yes, the public will have input.

Joann Napoliello, 49 Strickland Street: What is the protocol to be on a committee in town? Do have to be a Bay Head resident?

Mayor Curtis: Come and see me. If you are a resident you can serve on a committee.

Peter Doane, 325 Lake Avenue: I know there is an ordinance for brush and overgrowth covering sidewalks. Bart gave summons and they paid the fine but didn't do anything. I don't feel the fine is high enough.

Mayor Curtis: We are looking at increasing fines. We just hired another Code Enforcement Officer. I believe the resident first receive a letter of the violation. If they fail to comply I believe we can have public works cut the growth back and we then can place a lien on the property. As part of the new website, you can send a note of concern and it will be directed to the proper person to look into.

Mr. Doane: What can we do to get a dog park in town?

Mayor Curtis: I will have Parks and Recreation look into it.

Council President Green: There are ways to do this.

Councilmember Barnes: You need a location. I would also like to look at other town ordinances and talk to other councilmen in towns that have dog parks.

Mayor Curtis: The other consideration is where it would be. We welcome your input. Dogs should not be on the beach in the summer and when they are there in the winter they should be leashed. We are going to start enforcing that.

Mr. Niedzwiecki: The audio system is not too good – we can't hear clearly on the back row. On the west side of Clayton Avenue, utility poles will be moved?

Councilmember Magory: Yes, at their expense – close to \$100,000.00.

Mr. Niedzwiecki: Councilmember Lyons, in working on the 2018 Budget – try and keep taxes down.

Councilmember Lyons: I do – every year.

Mr. Niedzwiecki: I know you do.

Mr. Niedzwiecki: I would like to express great appreciation to Rob Hoffman. He came into a situation that none of us wanted and has done a great job.

Gail Doane, 325 Lake Avenue: I have lived here 2 ½ years and this summer all the reeds were cut down to the bone. I don't understand why that happens so often now – it was only once a year.

Council President Green: They aren't reeds they are fragmanties which are an invasive plant that chokes out the grass that is there. They are detrimental to the lake. They are wicked to keep down and they will be cut twice a year.

Ms. Doane: Can we plant reeds?

Council President Green: The Beautification Committee will be meeting next month to discuss what to plant. Call me – we would love for you to be there.

Neil Manheimer, 49 Strickland Street: I would like to be more knowledgeable as to the budget process. I also understand the sidewalks on Clayton would have to be funded. I would like to understand more.

Councilmember Lyons: I would be happy to sit with you. Many grants applied for aren't received. Health costs will remain flat this year – which will help the budget.

Mayor Curtis: Our CFO is in every Tuesday.

Ms. Napoliello: Does this building have to be revamped to bring in prisoners?

Mayor Curtis: There is no problem with this building or none that will affect the cost. Our jail is only a holding cell.

Councilmember Magory: The Police Department is fully approved by the DOC.

Mr. Niedzwiecki: I would like to comment on the way you handle resolutions. There is no explanation as to why it is being written. You need a better explanation.

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

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

WHEREAS, the Open Public Meetings Act, N.J.S.A. 10:4-12, permits the exclusion of the public from a meeting in certain circumstances; and

WHEREAS, the 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 discussions of an actions upon the hereinafter specified subject matter.
2. The following subject involve:
Personnel
3. It is anticipated at this time the above subject matters will not be made public.
4. This Resolution shall become effective immediately. No action will be taken following the session.

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

The Governing Body went into Executive Session at 8:24 pm. At 9:31 pm the Governing Body came out of Executive Session and resumed the meeting.

There being no further business Mayor Curtis adjourned the meeting.

Patricia M. Applegate, Municipal Clerk

William W. Curtis, Mayor

