

July 6, 2009

The regular meeting of Mayor and Council of the Borough of Bay Head was held on July 6, 2009 at 7:00 PM in the Council Chambers of the Borough Hall.

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

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

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 in the main corridor of the Borough Hall and was published in *The Ocean Star*.

Councilmember Urner moved to approve the minutes of June 15, 2009. The motion was seconded by Councilmember Barnes and passed on roll call vote. YEAS: Berko, Green, Barnes, Glass, DeFilippis, Urner. NAYS: None.

Mayor Curtis made the following appointment:

**Jennifer B. Krieg – Part-Time Alternate
Deputy Court Administrator**

Mayor Curtis called for Reports of Standing Committees.

Councilmember Berko, Legal and Planning, had no report.

Councilmember Green, Parks, Grounds and Recreation: First, I would like to apologize for the work not being completed on the tennis courts. We had a date but with all the rain in June the work couldn't be accomplished. We are waiting for a new start date. Our first "Timely Topics 2009" will take place next Tuesday, July 14th from 7:30 to 9:00 p.m. here at Borough Hall. The topic will be "Sustainable Jersey" Learn about what Bay Head is doing to become a certified sustainable community and what you can do to help our town "go green" and "save green:."

Councilmember Barnes, Public Services, read the monthly Zoning Officer and Construction Official report for the month of June. A copy of the report is attached to these minutes. Also, a reminder to all homeowners to obtain a building permit prior to starting construction,

recently someone was made to remove everything because they had failed to obtain a building permit and have the work inspected.

Councilmember Glass, Public Safety, read the Police Activity Report for the month of June. A copy of the report is attached to these minutes.

Councilmember DeFilippis, Public Works, had no report.

Councilmember Urner, Finance, had no report.

Mayor Curtis called for Clerk's Correspondence.

Mrs. Applegate offered a request from Bay Head School Foundation to use the bathroom facilities in Borough Hall on Saturday, July 18th from 10 am to 4 pm for The Great Duck Derby. Councilmember Urner moved to approve the request which was seconded by Councilmember Berko.

Councilmember Barnes: Do we charge a fee to have the restrooms cleaned?

Mayor Curtis: No we don't charge a fee but the restrooms are cleaned on Tuesdays in July and August.

Ms. Cipriani: You would have to adopt an ordinance to charge a fee.

Councilmember Green: I would hate to charge a fee because it is a community event.

The motion passed on roll call vote. YEAS: Berko, Green, Barnes, Glass, DeFilippis, Urner. NAYS: None.

Mrs. Applegate offered an application from the Bay Head Fire Co. #1 for Special Permit for a Social Affair to be held on August 15, 2009. Councilmember Urner moved to approve the application which was seconded by Councilmember Berko and passed on roll call vote. YEAS: Berko, Green, Barnes, Glass, DeFilippis, Urner. NAYS: None.

Councilmember Urner offered Ordinance 2009-08

**AN AMENDMENT TO ORDINANCE 2009-04
ESTABLISHING SALARY, WAGES, HOLIDAYS, SICK
LEAVE, VACATIONS AND OTHER BENEFITS OF
EMPLOYMENT OF THE BOROUGH OF BAY HEAD,
OCEAN COUNTY, NEW JERSEY FOR THE CALENDAR
YEAR 2009**

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

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 was passed on roll call vote. YEAS: Berko, Green, Barnes, Glass, DeFilippis, Urner. 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 Urner offered Resolution 2009-73 amending Resolution 2009-72 awarding a two-year agreement with an option for a one year extension for payroll services to Action Data Services and moved it be adopted. This motion was seconded by Councilmember Green and passed on roll call vote. YEAS: Berko, Green, Barnes, Glass, DeFilippis, Urner. NAYS: None. A copy of the resolution is attached to these minutes.

Councilmember Berko offered Resolution 2009-74 appointing Jennifer B. Krieg as Part-Time Alternate Deputy Municipal Court Administrator and moved it be adopted. This motion was seconded by Councilmember Green and passed on roll call vote. YEAS: Berko, Green, Barnes, Glass, DeFilippis, Urner. NAYS: None. A copy of the resolution is attached to these minutes.

Councilmember Urner offered Resolution 2009-75 amending Resolution 2009-59 providing for salaries and compensation of Borough Officials and employees for 2009 and moved it be adopted. This motion was seconded by Councilmember Green and passed on roll call vote. YEAS: Berko, Green, Barnes, Glass, DeFilippis, Urner. NAYS: None. A copy of the resolution is attached to these minutes.

Councilmember DeFilippis: I would like some input from Council and the public concerning the traffic patterns and parking issues on Lake Avenue. The road work is complete except for the striping. Lake Avenue is 33 feet wide and a parking space width is 7.5 feet leaving only 18 feet, 9 feet for each traffic lane if there is parking on both sides of the street. Are there any suggestions?

Councilmember Glass: Parking is presently allowed on both sides.

Mayor Curtis: We are mainly talking from Howe to Johnson.

Councilmember Urner: How many accidents have been reported?

Chief Grace: It varies – maybe a sideswipe once a week.

Councilmember Green: What are the options?

Councilmember DeFilippis: One way traffic, parking only on one side of the street or delineate parking differently.

Councilmember Berko: What is a standard lane?

Councilmember DeFilippis: 10 feet.

Councilmember Glass: I would say leave it alone.

Councilmember Urner: That is my suggestion also.

Councilmember Berko: Do we know how many people who live there have no off street parking? Just because it has always been that way doesn't mean something shouldn't be done.

Councilmember Green: Cars get side swiped on East Avenue also and it is one way.

Councilmember Berko: Don't we have a safety officer who could make a recommendation.

Chief Grace: Limiting parking to one side would eliminate 60 to 65 parking spots.

Councilmember Berko: Do you have an opinion?

Chief Grace: It is a tough call. There have been no serious accidents.

Councilmember Berko: Does the contractor require us to make a decision soon or can we put this off?

Councilmember DeFilippis: I met with DOT and the County Road Department and they don't offer any suggestions, there is no right way without impacting someone.

Ms. Cipriani: There have been minimal side swipes; the lanes are not standard lanes they are narrower so if there was a serious accident there may also be the potential for liability.

Councilmember Berko: Why don't we make it one way from Bridge Avenue to Johnson Street.

Ms. Cipriani: There is a possibility that you could make a choice to do a design immunity resolution. With that you are saying you recognize the potential danger and you are taking what steps you can. In this case it might be signage stating be aware of narrow lane, alternate traffic when necessary to try and address the issue. In this situation a design immunity resolution might be sufficient or it might not.

Councilmember Berko: What about when you have a reasonable alternative – a one way street?

Ms. Cipriani: The question would then go to reasonable alternative. If it's a possible alternative but it is not reasonable because it creates its own hazard, people turning onto Rt. 35 or whatever, it may be that you have waived those risks and found that the risks of maintaining the street as is, that is the argument. I am not saying that it is a winner

here. People who are familiar with the area and the need for parking understand the urgency of that. I think courts, even courts in this area, are going to feel especially if they are faced with a serious accident that another alternative should have been selected.

Councilmember Berko: But you can retain the parking and eliminate the safety hazard by making it a one way street. So how can you argue when you have a reasonable alternative that you should be immune?

Councilmember Glass: The street has been that way for many years. We could put up signs stating narrow lanes.

Chief Grace: I would hate to see it one way.

Councilmember Berko: This is too important to be decided today so we need to look into it and not make a decision tonight.

Mayor Curtis: The issue is worthy of discussion but it can't be changed in the middle of summer our busiest time of year.

Councilmember Berko: It is an important issue and we have been told that we are liable.

Councilmember DeFilippis: We need to run a center line and the lines for the parking spaces so that the corners and driveways are covered.

Councilmember Urner: Councilmember DeFilippis, do you have a recommendation?

Councilmember DeFilippis: I want to hear what you have to say.

Councilmember Green: We need the parking. I feel signs stating narrow lanes would be helpful. Have you ever been down Lake Ave, when church is being held on Sunday morning? The parking is needed.

Mayor Curtis: It has to be addressed but we can't leap to a decision.

Ms Cipriani: In terms of minimizing liability you are better off to have the roadway striped than not.

Mayor Curtis: John is looking for some guidance as to whether or not the Council wants to put the parking spots back in.

Councilmember Berko: 90% of the streets in town aren't striped down the middle so are they all venerable too?

Ms. Cipriani: They are more vulnerable than they would be if they were striped. It is a risk assessment. The answer is yes. The clearer the delineation especially if there is an issue about the width of the lane, questions regarding parking all of those things are going to be potential liability enhancers. The protection for the municipality is to maintain the public property in a way that is not palatable unreasonable.

Chief Grace: What if parking on one side was for sub compact cars only with a space of six foot wide?

Ms. Cipriani: The Chief's suggestion has merit. You acknowledge the problem but allow parking of sub compact on one side.

Councilmember Berko: The width of a parking space is already 7.5 – are we going to get it any narrower?

Councilmember Green: I say leave it the way it was and install signs.

Ms. Cirpiani: You can try to protect yourself better by having signage. I also feel compelled to advise you that liability exists.

Chief Grace: Could reflectors be installed down the center for now?

Councilmember Barnes: I would recommend the reflectors with signage as a temporary fix.

Councilmember Berko: Can we go with the line for now and hold off on the parking spots. Paint the curbs and let them park where they want.

Ms. Cipriani: If you put all the parking spaces back it would let you know were the center line is.

Chief Grace: I haven't had any issues with parking in the last two weeks.

Mayor Curtis: If we had the yellow curbs to delineate how close you can get to the corner and then put those reflectors in the middle from Howe Street to Johnson. Jean can you formulate a motion?

Ms. Cipriani: My understanding, it would be a motion to take temporary measures to alleviate the situation on Lake Avenue while permanent decisions incorporating safety and convenience are investigated, those temporary measures would include painting the curbs yellow where parking is prohibited, placing a temporary center line, using reflective discs, and installing appropriate signs reading "narrow lanes proceed with caution".

Councilmember Green moved the motion which was seconded by Councilmember Berko and passed on roll call vote. YEAS: Berko, Green, Barnes, Glass, Urner. NAYS: None. ABSTAIN: DeFilippis.

Councilmember Green: Speeding also needs to be addressed on East Avenue. Is there anything we can do to work on that, maybe signs in the middle of the road? Police patrol all the time, but with all the children it is still a problem.

Chief Grace: We have tried everything.

Councilmember Berko: Maybe we could try speed bumps.

Ms. Cipriani: If it our road, yes. They are called traffic calming devices and generally there is not a liability issue.

Mayor Curtis opened the meeting for Public Discussion.

Paula Weissberger, 1296 Bay Avenue: I was bicycle riding with friends on Lake Avenue the other day and we just fortunate there wasn't an accident. I think reflectors are a great idea for now.

Connie Cardillo, 534 West Lake Avenue: As to the restrooms, why aren't they told to leave them as they find them.

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

The meeting was adjourned.

**Patricia M. Applegate, RMC
Municipal Clerk**

William W. Curtis, Mayor