

August 3, 2009

The regular meeting of Mayor and Council of the Borough of Bay Head was held on August 3, 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 Barnes moved to approve the minutes of July 20, 2009. The motion was seconded by Councilmember Urner and passed on roll call vote. YEAS: Green, Barnes, Glass, DeFilippis, Urner. NAYS: None. ABSTAIN: Berko.

Mayor Curtis called for Reports of Standing Committees.

Councilmember Berko, Legal and Planning, had no report.

Councilmember Green, Parks, Grounds and Recreation: I would like to thank the Bay Head Environmental Commission and the Seaweeders' Garden Club for the second Timely Topics 2009 "The Garden Patch" Grand Opening which took place on Saturday, August 1st at the Bay Head Recycling Center. It was truly magical. It is a great spot to learn about environmentally responsible gardening. The hours are 7:30 am to 3:45 pm weekdays and 9 am to 2:45 pm weekends. I would also like to thank the Bay Head Public Works employees for their help and the Bay Head Police Department for traffic and crowd control on Saturday. I am pleased to announce the renovations to the tennis courts are complete and have reopened for use. I would like to thank Kelley Mickle for the great job she did handling the public during the renovation. Lastly, pet waste is being left around our town in our parks, playgrounds and grassy areas. This is a public health safety hazard. Please give a reminder to anyone you see walking a dog. Chief have summons been issued for this violation?

Chief Grace: Yes they have.

Councilmember Berko: Bob Ryan's long lost dog ordinance makes it illegal to walk a dog without a bag.

Councilmember Green: I will ask the Environmental Commission to take a more active role in getting the word out.

Mayor Curtis: Maybe you and the Environmental Commission could get hold of the ordinance Bob Ryan was working on.

Councilmember Barnes, Public Services, read the monthly Zoning Officer and Construction Official report for the month of July. A copy of the report is attached to these minutes. I would also like to direct everyone to the website to take the poll as to Lake Avenue. Voting will close on September 1st. Animal waste is an issue as is littering especially on Bay Avenue. Just be reminded that there are ordinances and penalties for these violations.

Councilmember Green: This is a problem all over town not just Bay Avenue.

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

Councilmember Barnes: I would like to remind everyone to lock their bikes. 24 is a lot for one month and only 2 were recovered and of the 24 only 1 was locked.

Councilmember Glass: If you have a bike you should have a lock and use it.

Councilmember DeFilippis, Public Works, had no report.

Councilmember Urner, Finance: We have tracked down as best we can the misappropriated funds from the Ameripay payroll account totaling \$13,567.00 so far. We have notified the IRS of the problem and are requesting that no penalties be assessed for late filings. We are still checking with the State. You were all given a copy of the letter the Mayor wrote.

Mayor Curtis: I have talked to Waste Management and they only have compliments with everyone in Bay Head in making the transition from Marpal. I would like to remind everyone we have rear or side yard pickup. Do not put your bags or cans to the curb. I asked if they noticed this as being a problem and he indicated that the majority of homeowners on Bay and Osborne are still pulling their bags or cans to the curb. We need to come up with a way to stop this. We do have an ordinance and will enforce if the cans are put out to the curb. We understand if you have a dog that needs to be kept fenced then the cans can be left outside the fence but not at the curb.

Councilmember Barnes: The raccoon problem is why the residents on Bay and Osborne put their garbage out because every yard abuts transit property. If my cans are behind my fence the raccoons are in

them. If the cans are in front of the fence they don't bother them. To tell you the truth with a number of raccoons being tested rabid I prefer not to have to clean up after them.

Councilmember Green: The problem is residents who are only down on weekends say they put their garbage out in bags so it will be picked up and if they put the garbage in the cans they would then be left rolling around until their return. We need to send another reminder.

Councilmember Barnes: That doesn't resolve the problem with raccoons.

Councilmember Berko: You need a garbage box.

Mayor Curtis called for Clerk's Correspondence.

Mrs. Applegate offered two applications for Raffles License from the Bay Head School Foundation. One was for an on premise merchandise raffles and other was for an on premise 50/50 for an event to be held on September 26, 2009 at the Bay Head School. Councilmember Berko moved to approve the applications which was seconded by Councilmember Glass and passed on roll call vote. YEAS: Berko, Green, Barnes, Glass, DeFilippis, Urner. NAYS: None.

Mayor Curtis called for Ordinances, First Reading.

Councilmember Berko offered Ordinance 2009-09 entitled:

ORDINANCE OF THE BOROUGH COUNCIL OF THE BOROUGH OF BAY HEAD, OCEAN COUNTY, NEW JERSEY, AMENDING AND SUPPLEMENTING CHAPTER 147 OF THE BOROUGH CODE ENTITLED, "LANDUSE," SO AS TO INCLUDE CERTAIN DECKS IN IMPERVIOUS COVERAGE CALCULATION

Councilmember Berko moved to approve this ordinance on first reading, which motion was seconded by Councilmember Barnes and passed on roll call vote. YEAS: Berko, Green, Barnes, Glass, DeFilippis, Urner. NAYS: None. A copy of this ordinance is attached to these minutes.

Mayor Curtis called for Unfinished Business.

Councilmember Berko: Is the groin work complete on Mount Street?

Mayor Curtis: They walked off the job and we don't want them to return. We are negotiating the final payment. We have no plans at this time to complete the work.

Councilmember Berko: I ask this because I would like all Councilmembers to take a look now at the groins at the Bluffs and Mount Street. They are at the present time almost identical. The pilings are in but the whalers aren't which allows the sand to flow

through. If anyone is going to vote you should take a look so you can draw your own conclusion.

Mayor Curtis called for New Business and Resolutions.

Councilmember Barnes offered Resolution 2009-79 authorizing the Borough of Bay Head to enter into a renewal agreement with Ocean County Energy Cooperative Pricing System and moved it be adopted. This motion was seconded by Councilmember Berko 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.

Mayor Curtis: Councilmember Glass do you want to act on the request from the fire company?

Councilmember Glass: I just received it this evening so I would like to wait until the next meeting.

Mayor Curtis opened the meeting for Public Discussion.

Toby Wintersteen, 277 Osborne Avenue: Has any thought been given to using concrete blocks with holes which slow down the water and let the sand fall out?

Councilmember Green: When the groins were in disrepair we had engineers from Rutgers and Stockton College do an analysis and all recommended using timber materials.

Helene DeFilippis, 78 Goetze Street: I would suggest sending another letter out concerning the location of the garbage cans. It should be in large print and only one sheet.

There being no further comments Councilmember Urner moved to approve the vouchers for payment, which motion was seconded by Councilmember DeFilippis 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.

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

**RESOLUTION OF THE BOROUGH OF BAY HEAD
OCEAN COUNTY, NEW JERSEY EXCLUDING THE
GENERAL PUBLIC FOR A MEETING PURSUANT
TO THE OPEN PUBLIC MEETINGS ACT**

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, 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 discussions of an actions upon the hereinafter specified subject matter.**
- 2. The following subject involves matters of attorney/client privilege:
 - a. Litigation – DEP – Underground Storage Tank****
- 3. It is anticipated that the matter discussed will be made public within sixty (60) days.**
- 4. This Resolution shall become effective immediately.**

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

The Governing Body went into Executive Session at 7:53 pm. At 8:19 pm the Governing Body came out of Executive Session and resumed the regular meeting.

There being no further business the meeting was adjourned.

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

William W. Curtis, Mayor