

**January 3, 2011
Regular Meeting**

The regular meeting of the Mayor and Council of the Borough of Bay Head was held immediately after the Reorganization Meeting of January 3, 2011 was adjourned, which was at approximately at 7:37 PM. The meeting was held in the Council Chambers of the Borough Hall.

Present at the meeting were Mayor Curtis and Councilmembers Barnes, Glass, DeFilippis, Urner. Councilmember Berko and Green were absent.

The minutes of the regular and executive meeting held on December 20, 2010 were approved on a motion by Councilmember Glass, seconded by Councilmember Barnes and passed on roll call vote. YEAS: Barnes, Glass, DeFilippis, Urner. NAYS: None.

Mayor Curtis called for Reports of Standing Committees.

Councilmember Barnes, Public Services, read the Zoning Officer report and the Construction Official report for the month of December. A copy of the report is attached to these minutes.

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

Councilmember DeFilippis, Public Works: I will make some comments on the recent snow storm. The reason we had a lot of problems with the results that you see are because there was so much snow there was no place to put it. We ran one single plow through each street. If we had continued moving it closer to the side, people wouldn't have been able to get out of the driveways. We are in the process of salting and sanding to prevent icy roads. I am making no excuses just stating as a matter of fact.

Mayor Curtis: Our three public works employees went out 1:30 Sunday and worked through when it stopped and beyond. I feel they did a great job.

Councilmember Urner, Finance: We have been looking hard at our budget for 2011. We have been in touch with our auditor and he will be helping us with our surplus figure. I have just been notified that pension cost for next year is going us 22%. We have a cap on our budget at 2%. I plan to hold a budget meeting on the 19th of January.

Mayor Curtis called for Ordinances, First Reading.

Councilmember Urner offered Ordinance 2010-01 entitled:

**AN AMENDMENT TO ORDINANCE 2008-19 ESTABLISHING
SALARY, WAGES, HOLIDAYS, SICK LEAVE, VACATIONS**

**AND OTHER BENEFITS FOR THE POLICE DEPARTMENT
OF THE BOROUGH OF BAY HEAD, OCEAN COUNTY, NEW
JERSEY**

Councilmember Urner moved to approve this ordinance on first reading, which motion was seconded by Councilmember DeFilippis and passed on roll call vote. YEAS: Barnes, Glass, DeFilippis, Urner. 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 2011-15 authorizing the execution of a Shared Services Agreement with the County of Ocean for Driving While Intoxicated Enforcement Program and moved it be adopted. This motion was seconded by Councilmember Urner and passed on roll call vote. YEAS: Barnes, Glass, DeFilippis, Urner. NAYS: None. A copy of the resolution is attached to these minutes.

Councilmember Barnes offered Resolution 2011-16 authorizing the execution of a Shared Services Agreement with the County of Ocean for Prosecutor's Program and moved it be adopted. This motion was seconded by Councilmember DeFilippis and passed on roll call vote. YEAS: Barnes, Glass, DeFilippis, Urner. NAYS: None. A copy of the resolution is attached to these minutes.

Councilmember Urner offered Resolution 2011-17 providing for Salaries and Compensation of the Police Department of the Borough of Bay Head for 2011 and moved it be adopted. This motion was seconded by Councilmember Glass and passed on roll call vote. YEAS: Barnes, Glass, DeFilippis, Urner. NAYS: None. A copy of the resolution is attached to these minutes.

Councilmember Urner offered Resolution 2011-18 approving the 2011 Temporary Budget and moved it be adopted. This motion was seconded by Councilmember Glass and passed on roll call vote. YEAS: Barnes, Glass, DeFilippis, Urner. NAYS: None. A copy of the resolution is attached to these minutes.

Councilmember Urner offered Resolution 2011-19 authorizing transfer in the 2010 Municipal Budget and moved it be adopted. This motion was seconded by Councilmember DeFilippis and passed on roll call vote. YEAS: Barnes, Glass, DeFilippis, Urner. NAYS: None. A copy of the resolution is attached to these minutes.

Mayor Curtis opened the meeting for Public Discussion.

Sandra Antognoli, 237 Evergreen Drive: I would like to discuss the garbage ordinance. I am confused by it and I will be speaking on behalf of my street. Many of residents have gotten warnings and some have gotten fines. For many years we brought our garbage out to the front of our garage and after pick up the cans were brought back in because we

have an issue with raccoons. I did get my warning. My husband went and spoke with Mr. Petrillo and he explained that it had to be on the side or rear and not visible from the front. We did that and a number of other residents did the same but they have now gotten fines. I did get a copy of the ordinance and reviewed it but I am still confused and I would like to know exactly what you are enforcing. As far as Evergreen Drive it is a special type of block - there is a lot of property between the homes so even when the cans are placed on the side or the rear of the home the cans are still visible because it is a cul-de-sac. We have a thirty-five foot setback. I did read if it can't be place from public view put it to the rear. I have a number children with a number of toys and my gate will not stay closed so I can't guarantee that if it is placed in my rear the garbage man won't slip an fall. I don't know exactly what you are enforcing. I appreciate that you want to keep the town neat and orderly and I respect that. Our street is extremely neat and orderly. We keep are grass neat and our properties nice. I would just like to know where you want the cans placed exactly and what you want to enforce.

Councilmember Barnes: I couldn't agree with you more. I have been the chairperson to the solid waste committee for the last year. We have had numerous meetings. I feel if the garbage is located on the side of your property then a summons should not be issued. I have met a lot of opposition that it is a aesthetic value to live in Bay Head and to not see garbage receptacles at all on your property. I have a problem with that because I live in your neighborhood and I deal also with the raccoons, wildlife and I also have small children and I have a gate that I would like locked and I don't want someone in my yard. It is a privacy concern, it is a safety concern, I live on a main street, I share every sentiment that you have. I have tried numerous times to pass an ordinance up here and they have never gotten a second to change the language so that it would be permissible to have your can on the side even if it is visible.

Ms. Antognoli: What I don't understand is that most of the cans have been moved and when looking from our property you can not see them. Concerning the snow plowing – I have been told that we are not a thoroughfare so we are the last to be plowed but why are we the first to be enforced when it comes to the garbage cans? We are not a throughfare and the only people to see the cans are the residents, guests and anyone who comes down for a walk. I talked to many residents in town who have been here for over 30 years and their cans are visible and when I talk to them about the summons they don't know what I am talking about yet everyone one on our block knows about this because they have gotten warnings and fines. My point is if you are going to enforce this ordinance whatever it may be it should be to all or to none.

Councilmember Barnes: The ordinance too contradicts itself. It says it can't be visible from the street but even if you have it in the rear it still may be visible from the street. I feel the ordinance is unenforceable at this point.

Ms. Antognoli: The ordinance also states that the garbage should be easily assessable to the collector. How is it putting it way back there, have the garbage men to come all the way to the rear easily assessable. Who is responsible if he falls and gets hurt? Are you enforcing if it is visible from the front or from any point when someone is driving by?

Ms. Cipriani: If it is an enforcement issue and the person feels the ordinance is not understandable you should take pictures and submit them to the judge and it then becomes a defense issue. Councilmember Barnes is suggesting changing the ordinance. The present ordinance states it has to be placed in the side or rear of the property screened from view.

Ms. Antognoli: We were told when we came down that it couldn't be visible from the front of our home. I you pass our home and you make the turn it is then visible.

Ms. Cipriani: The plain language of the ordinance says screened from the street. You can advocate for a change in the ordinance.

Ms. Antognoli: How do you screen it – do you have to build something? I can tell you right now that $\frac{3}{4}$ of the town the cans are visible from the street there is nothing screening any of them. Obvious this ordinance has been on the books many years and you are going to enforce it now. I have been here for twelve years and no one has had a problem with my garbage now all of a sudden this is a big deal.

Mayor Curtis: Sandra we can discuss this forever and everyone one of you has a legitimate argument on this issue but it is not going to be resolved here tonight.

Ms. Antognoli: I am ok with that but if you aren't exactly sure what you are going to enforce but you are giving out summons.

Mayor Curtis: That is correct. As our attorney said we are starting to enforce all of our ordinances a little stricter than we have in the past. If you aren't in agreement then you have a gripe and you can come in a see me and we can talk about it and see if we can't get some wording that would fit. The object is and it is clear to me that it should be screened from public view. We pay a premium in our garbage collection to have rear and side yard pick up not out in the front or on the street. In the past many garbage pails have been left out for weeks and they blow all over the place.

Ms. Antognoli: I agree but why can't there be a summons if you left the cans out to blow around.

Mayor Curtis: If you were told to do something and you did it and then you received a summons you should come to see me.

Geno Antognoli: 237 Evergreen Drive: What is the legality issue if someone is hurt on your property? Why bring the collectors to the back of your house?

Mayor Curtis: I don't think we have ever been sued and it has always been on the rear and side of the house.

Mr. Antognoli: They are never put back where they were – today ours were left out in full view and I have them behind a shrub. The Beyer's live on our street they have an irregular lot and you can actually see into their back yard.

Mayor Curtis: Thank you for your comments.

Evalyn Shippee, 56 Bridge Avenue: In December 2008 the Council was well meaning in trying to create an ordinance that was favorable to business or some of the commercial buildings by allowing them to divide into multiple uses. However, as was said at the time, the ordinance could have been written a little better. I have asked before and was told that you were working on it. I am asking now what is the state of Ordinance 2008-16 addressing an amendment that should have been there in 2009 according to Mr. Fitzsimmons your counsel at that time.

Mayor Curtis: I would say no – is that the one with the 500 sq. ft. minimum inside the building?

Ms. Shippee: Yes. There were several larger businesses in town and were single businesses and had been for generations. Others had developed over time and had multiple uses. To equalize the larger ones to give them the ability if they so need or want to have other smaller businesses within and at second reading in December 2008 and public discussion it was noted that it also contained the phrase at a minimum of 500 sq. ft. It was discussed that 500 sq. ft. was too big. Mr. Fitzsimmons advised because it was the end of the year rather than table the ordinance as written to simply let it go through and then amend it because all the amendment need was to eliminate the phase minimum of 500 sq. ft. and it is two years later. It is an importance item not to let go.

Mayor Curtis: We haven't looked at it in a while and we need to get back to it. Thank you.

Jay Cornell, 349 Lake Avenue: As to the snow removal – are we completely done with shoveling and are we in the salt phase now or are we going to address the streets that have one lane plowed?

Councilmember DeFilippis: The major streets are down to pavement. Those streets that abut the main streets are going to get looked at again. We have been salting and sanding those streets to prevent icing. There are several streets that require more snow moving not removal. We can't dump the snow into the bay.

Mr. Cornell: I am concerned with the safety issue of the school, Grove Avenue, where one single plow went through.

Councilmember DeFilippis: That was addressed yesterday and they were back there is morning.

Mr. Cornell: Is there a course of action to say if we get another snow fall that you are going to tell the public works this is an important aspect that you need to manage now.

Councilmember DeFilippis: There are priorities and the school is one of them which was addressed over the weekend and this morning as well.

Mr. Cornell: My other concern is the streets that abut Main Avenue and have a very narrow lane to get in and out. I am concerned as to why those corners haven't been plowed up.

Councilmember DeFilippis: As I mentioned before if we tried to put two lanes on every street there is no where to put the snow. I am willing to go with you tomorrow to view the areas of your concern.

Mr. Antognoli: What is the order of street plowing priorities?

Councilmember DeFilippis: We work with the county and state and as soon as those streets are plowed we hit the side streets that abut those roads. The smaller streets are last on the list – our priority is to move traffic. We also give priority to the fire house the municipal parking lot because a number of people have to use our public parking lot.

Mr. Antognoli: We waited to Tuesday at 9 am. They did come back at 7 PM to have Evergreen Drive plowed and that was only one lane. We have no houses on the other side of our street. The snow could have been pushed there. I have pictures which show they plowed 15 feet from my driveway. I have a 35 foot setback and I had to plow another 15 feet to get to the plowed road. Why couldn't the plow get closer to the driveways – there is nothing on the other side.

Councilmember DeFilippis: We had 31 inches of snow and it was just more than we could handle. We have three individuals that work in our public works department fortunately we did have help on Route 35 and on Bridge Avenue. Even with that help we still have about 120 miles of streets to clear with three individuals. Your street is not the only street in that condition, my car is still in the driveway because I can't get out yet. I have the same conditions you have.

Mayor Curtis: Mr. Antognoli your point is well taken and it shouldn't be.

Zoe Wells, 766 East Avenue: My concern is East Avenue – only one swipe went down and then nothing after that I ever saw. There are also signs stating no parking when road is snow covered and we have a lot of construction on East so there is also no safe place to walk.

Councilmember DeFilippis: Some cars were left on the street that should have been moved prior to the snow fall which created issues with allowing the plowing to come through.

Helene DeFilippis, 78 Goetze Street: Has anybody tried to come down Goetze Street in Bay Head where the Councilman lives? The plow came down on the other side of the street and it took us three days to get a car out. You can't walk down the street. So maybe we need to raise taxes so we can get more help when we have these problems. We need our streets cleaned.

Ms. Shippee: Trees and shrubs. At the last meeting you had a lengthy discussion and then passed 2010-18 which deals with safety issues on the corners of most streets. You proposed and approved a 25 foot site triangle with no foliage higher than three feet. I do want to remind you that I asked your attorney about corners with traffic lights and was told those corners are exempt. The ordinance doesn't state that so I am suggesting that the ordinance be amended to reflect that.

My second item: Jen knows that we have two different ordinances which talks about brush, grass and weeds which may or may not be different from hedges, foliage and shrubs but the height is in conflict. Three feet is mentioned in Ordinance 2010-18 but 2 ½ feet is mentioned in Chapter 83 for the same 25 feet back. My question now is does Ordinance 2010-18 change Chapter 83?

Ms. Cipriani: The ordinance only controls the sections that are mentioned in the ordinance itself. If it does not specifically delete another ordinance and it would not typically cross over chapters then it would not affect that ordinance.

Ms. Shippee: Your ordinance is amending Chapter 147 which is hedges, shrubs and trees you are still left with a conflict in Chapter 83. You might want to give that a look. Chapter 83 also addresses driveways. You also discussed planting between the curb and the sidewalk so if you are concerned as per safety you should have something written and say so. I see five problems with Ordinance 2018-18 that you passed last week.

No one else wishing to be heard, Councilmember Urner moved to approve the vouchers for payment, which motion was seconded by Councilmember Glass and passed on roll call vote. YEAS: Barnes, Glass, DeFilippis, Urner. 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