

November 7, 2011

The regular meeting of Mayor and Council of the Borough of Bay Head was held on November 7, 2011 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 him 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 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 *Asbury Park Press* and *The Ocean Star*.

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

Councilmember Barnes moved to approve the minutes of October 3, 2011. The motion was seconded by Councilmember Glass and passed on roll call vote. YEAS: Berko, Green, Barnes, Glass, DeFilippis. NAYS: None. NOT VOTING: Urner.

Mayor Curtis presented a Commendation to Jeffrey Beverly. A copy of the Commendation is attached to these minutes.

Mayor Curtis made the following appointment:

Stephen W. Stockhoff, SLEO Class II

Mayor Curtis: I have two items. First I would like to remind everyone to attend the Veteran's Day Commemoration on Friday, November 11th at 11 am at Blue Star Memorial at Scow Ditch Park, Bridge Avenue.

The second item concerns the Historic Preservation Ordinance. I wrote to Brian Shore, Chairman of the Bay Head Planning Board and asked if he would mind if tonight I made an official announcement that I am tabling this procedure. The tabling of this does not mean it is done. It is not done. The unfortunate thing was that we had a meeting in which the professional which was hired to develop an ordinance was there to make a presentation to the Planning Board and it got way beyond that. Since that meeting there has been so many inaccuracies flying around town, so many rumors as to whose property rights are being violated and whose aren't. So many things have been said that this ordinance, which has already been passed is going come into being and it is going to do this that and the other thing – I can only say that none of it is true. I am tabling this agenda so that a committee can take this project back in

house and come up with something that is amenable to every resident in the Borough of Bay Head. It will not come before Council until a minimum of two public meetings occur, maybe more. It will not come before Council until outside uninterested professionals, without an agenda, answer questions that the public may have. That will include lawyers, architects, planners and builders. Everything that you have heard, I am going to categorically say does not exist. If anyone feels they must attribute something to me, I would appreciate a phone call to me to see if I said it. I am pretty open and available. I want Brian and his committee, which will probably have some new and some old members on it, to sit back and take in house what was proposed and write something that the Planning Board will approve, that the town will approve of, and it will come to Council and they can either vote yea or nay. At this time I will go out of order and if anyone has any questions I will be very happy to answer.

Stan Niedzwiecki, 42 Johnson Street: Here, here you are a good man and that is why you are our Mayor.

Councilmember Glass: Thank you Mr. Mayor.

Councilmember Berko: This has come up at least twice before and I am kind of concerned that we spent a lot of money getting the third time to this point. Brian and some other representatives met with me. I have said for 21 years historic properties in Bay Head are great and that I would like to see them preserved. I made personal phone calls to the people on Bridge Avenue who tore the house down three times trying to set them to change their mind. Even at one point offering the hypothetical if some multi-millionaire came up with what ever it cost to restore it and you didn't have to tear it down will you do it and they said no. There are people that just don't want us telling them what to do with their property. The one thing I was majorly concerned about in the draft that I saw was that if you want to demolish a property the first thing you had to do was put it up for sale. I hope that is one of the things that is going. If you can come up with a way that will make everyone happy good luck. There are people with money in this town and if you put a big enough pool together and the people bought these houses and rehabbed them and put a deed restriction in them you wouldn't have a problem. If it is such a great investment let them put their money there and do it and then there is a deed restriction and it will have to stay that way without any kind of government interference. Again, I am all for it, I like the old buildings. I wouldn't personally want to live in one but I like the way they look. It is really complicated when you try to impose it in mid stream when somewhere else has had an ordinance for years and years people know what they are getting when they buy a house.

Councilmember Green: The first draft by consensus has proved to be a work in progress with lots more to do. The demolition delay component of that ordinance was something that scared people. I think we are in agreement that property rights, individual rights trumps all. The real important part of what we want to do moving forward is to exploit, educate and inform and remind people of the value of living in a historic

town. And frankly that has a lot to do with property values whether you live in the west part of town or on East Avenue or in the historic district. We all enjoy that value. We want to move forward to preserve what we do have, our history. Because that history will ensure the preservation of this town, which is a unique community in the state of New Jersey and I can't believe there is any resident that would disagree with that.

Mayor Curtis: I am very much in favor of preserving the streetscape and the history in Bay Head but we have a long way to go and there is nothing out there right now that will be acted upon and it won't be until all those things I stated take place.

Mayor Curtis called for Reports of Standing Committees.

Councilmember Berko, Legal and Planning, the Grenville matter is still being evaluated.

Councilmember Green, Parks, Grounds and Recreation: Thanks Mayor for all your support of the Environmental Commissions sponsorship of the Barnegat Bay Blitz on October 19th. It was fabulous event with the very challenging weather that day. We had a great show of many citizens and the support of Dr. John Ravally, Superintendent of our schools. Because of that we had students from the high school, the Interact Club, Environmental Club and the Bay Head School and we thank Principal Walter Therien for that and teachers as well. It was a great effort. We were very privileged to host Commissioner Bob Martin of NJDEP who came down to honor Bay Head. The lake clean up was successful. Thanks also to Shelly Hass who was the beach Captain for Clean Ocean Action that weekend and all who participated in the beach sweep. Lastly, this week we have Hutchinson Company coming to install four new heating and air conditioning units which is part of Sustainable New Jersey Green Team effort in securing a grant which will save the Borough of Bay Head approximately \$64,000 to install those units. We have already had the energy efficient lighting installed in the municipal building. It has been a long effort over a couple of years but finally it is happening. Thanks to all the students who planted dune grass this weekend.

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

As Council liaison to the Planning Board I want to thank you Mayor for taking what I believe the more prudent course and pretty much stalling this issue until more research is done. I think the problem was when the initial draft ordinance that was prepared and presented to the Planning Board that's why there was such a strong reaction from the community. My opinion is that the initial draft was very over reaching and very restrictive in terms of what people could and could not do. I am not sure the individual hired by the Planning Board truly understood where the committee wanted to go. I think the product presented to the Planning Board was again very restrictive and much more than people

thought it would be. So, I think it definitely is more prudent to hold off on this and get more input because it is such a big issue and a lot of consideration needs to go into it.

Councilmember Glass, Public Safety, read the Police Activity report for October and Fire Department report for September and October. A copy of the report is attached to these minutes. As of November 4, 2011 we are the first municipality in Ocean County to file our FEMA application. We filed for \$54,220.00 and hopefully will receive \$40,000. I would like to thank Kelley for all her work on the submission of the application.

Councilmember DeFilippis, Public Works, had no report.

Councilmember Urner, Finance: The finance committee is in the process of going through items in the 2011 budget to find out where we have some shortfalls and where we have some money we can move around. We are fairly well down the road on constructing the 2012 operating budget and are starting to tackle the capitol budget. Jean, do you know where we are with America Pay?

Ms. Cipriani: Only that the bankruptcy proceedings continue. There were a couple of preliminary issues regarding their attempt to recover funds they had already paid but we expect that will be resolved. As to when we will receive any funds, I continue to say that will be at least into to spring of 2012.

Councilmember Urner: Can we require bonding from these firms for the future?

Ms. Cipriani: We could require bonding if we put it out for an RFP process and make that one of the specifications. We could also contact and find out if we have any kind of insurance coverage that might bring it back to us. I had heard something about the municipality making a claim against the JIF but I don't know if that was successful.

Mayor Curtis called for Clerk's Correspondence.

Mrs. Applegate offered the following:

- 1. Request from Bay Head Business Association for their annual Christmas in Bay Head celebration, December 2, 3 & 4**
- 2. An application for an On Premise 50/50 Raffles from Deborah Hospital Foundation Point Pleasant Chapter for a monthly drawing in 2012 at 640 Lake Avenue**

Councilmember Urner moved to approve the requests. This motion was seconded by Councilmember Barnes and passed on roll call vote.

YEAS: Berko, Green, Barnes, Glass, DeFilippis, Urner.

Mayor Curtis called for Unfinished Business.

Councilmember Barnes: Update to the alert system. Basically there are about five or six providers that I was able to locate to provide an emergency alert system. The notification system would send out blanket message, text message, voice mail, e-mail what ever you select. It would give the residents a warning about hurricane, blizzard coming, street closures, construction going on – whatever the case may be. We have met with two vendors already and have two more meetings scheduled this week and I have reached out to another. Basically we are trying to keep everybody as current and abreast of things that are coming in to us and getting it out faster to you. What will happen is once we sign a contract with one of these vendors we would send out in the tax bills, post on the web-site, and article in the paper telling residents to log into the system – you would get a user ID and a password and sign up to get the instant alerts and you decide how you want to receive them – text message, phone call, e-mail whatever the case may be. The system will send out messages that we generate on our end. I would like to get it on the agenda for the December 5th meeting and in place by the winter season. The cost will run between \$1,500 and \$3,000 per year averaging .06 to .07 per household.

Mayor Curtis called for New Business and Resolutions.

Councilmember Urner offered Resolution 2011-101 authorizing refunds for overpayments of property or sewer taxes and moved it be adopted. This motion was seconded by Councilmember Barnes 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 Glass offered Resolution 2011-102 adopting Ocean County Multi-Hazard Mitigation Plan 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 2011-103 authorizing Transfer #1 in the 2011 Municipal Budget and moved it be adopted. This motion was seconded by Councilmember DeFilippis 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 offered Resolution 2011-104 awarding a contract to Earle Asphalt Co. to perform roadway improvements to Strickland, Johnson, Mount and Chadwick Streets and moved it be adopted. This motion was seconded by Councilmember Urner 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 Glass offered Resolution 2011-105 awarding a state contract for the purchase of a law enforcement vehicle to Mall Chevrolet and moved it be adopted. This motion was seconded by Councilmember Urner 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 opened the meeting for Public Discussion.

Bob Hein, 204 East Avenue: I would like to thank you Mayor and the Councilmembers that attended the fire company dinner the other night. I really appreciate your attendance – it is important to us.

Councilmember Urner: I would just like to remind the public that there will be a 2% increase in the amount of revenue to be raised by the town for 2012. We passed on a raise in property taxes in 2011 but I do promise you that there will be a 2% for 2012.

Councilmember Berko: There was a chart in the paper the other day that said Bay Heads taxes went up an average of \$400. How could we not had an increase?

Councilmember Urner: That may have been county increase.

Councilmember Berko: So you are saying the municipal rate did not go up.

Stan Niedzwiecki, 42 Johnson Street: I appreciate you bringing that up. The county is killing us. The percentage of increase for the county is crazy. You have done a good job. The only thing we get from them is snow plowing for three streets.

Councilmember Berko: What more services do you think they should provide?

Mr. Niedzwiecki: I don't want more services – I want them to stop spending. They are letting us down – please think about that tomorrow when you vote.

Mr. Niedzwiecki: You have to get a public audio system in this room, we can't hear in the back.

Councilmember DeFilippis: It is on order.

Peter Harrington, 512 Club Drive: Tonight I speak as a member of the Planning Board and part of the sub group working on the Historic Preservation ordinance. I feel like what I was made aware of over the weekend that we were asked to put this effort aside – table. I was told that you had asked Brian Shore to consider this due to public opposition to this. Number one, this has not been put forward yet – we just had the first draft. The opposition is being given all the oxygen in this debate right now. Those who are in favor and look at this not as a personal property rights issue because yes there is an element to that but it is also about that person next to you who has the same property rights as you do and they can put up an Italian aid structure – I can direct you to a place in Ocean Grove where – I call it a modern Victorian and there is a three story this far away – that could be us because we don't have

anything. I would like to make everyone aware is the fact that there is going to be a voice to the other side which says it is not such an imposition on you as you think that it is because there are things that bring value to property. I have had a discussion with a fellow Planning Board member of mine as to why are the same 100 X 200, 50 X 100, 50 X 150 why are they worth more in this town than in Point Pleasant Beach, Lavallette or anywhere else on the barrier island. Same beach, same bay there is something here and I don't think we are having the right discussion. All I ask is that we keep an open mind here – let's measure twice and cut once because when these places go down they are gone. You aren't going to replace something – it can have cedar shake this that and other elements but it is not the same. It is about the street scape – it is about a shared vision of what this is and what this town offers. When I hear people say I love Bay Head and I am like you love it for where it is right now. If the people before us had the same mind set then there wouldn't be Bay Head here today. We have resignation from the National Park Service for what we have. We can lose it. I just ask that people check you emotion, check your government footprint whether you think it is to big or to small – check that at the door and let's have an intelligent discussion about what we have before we lose it. I am not trying to tell someone that they can't have something because I have said before there are 75 pages of Section 147 of the Municipal Land Use Code which tells you what you can't do with your property. It is not so much as what stops at your property line it is about what happens next to you and across from you. That is what we have to be looking forward. Thank you very much.

Mayor Curtis: Before you came we had a twenty minute discussion on that. That is exactly what is going to happen.

Mr. Harrington: I will promise you there is going to be a voice measured, professional, factual - because it is not bad.

Mayor Curtis: I think you should sit with me and listen what I said prior to your getting here.

Councilmember Green: Thank you Peter as a member of that committee. We have a lot of work to do going forward in preserving our town and we can get it right.

Mayor Curtis: Your goal is the same as everyone up here. We need to stop the rumors and miss information.

Mr. Harrington: It is fortunate that there is a separate voice that is mobilized and ready to go because if it was tabled and there wasn't that voice then it is tabled. We are moving forward and we are going to get the yes and that is the good part.

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.

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 and actions upon the hereinafter specified subject matter.**
- 2. The following subjects involve personnel matters.**

Personnel

- 3. It is anticipated at this time the above stated subject matter will not be made public at any foreseeable time in the future.**
- 4. This Resolution shall become effective immediately.**

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

The Governing Body went into Executive Session at 7:57 pm. At 9:15 pm the Governing Body came out of Executive Session and resumed the meeting.

There being no further business Mayor adjourned the meeting.

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

William W. Curtis, Mayor