

**August 15, 2011
Non-Voter Taxpayer Meeting**

A special meeting of Mayor and Council of the Borough of Bay Head was held on August 15, 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 for attendance. Present were Mayor Curtis and Councilmembers Berko, Green, DeFilippis, Glass, Urner and Borough Attorney, Jean L. Cipriani. Councilmember Barnes was absent.

Councilmember Glass moved to approve the regular and executive minutes of August 1, 2011. The motion was seconded by Councilmember Urner and passed on roll call vote. YEAS: Berko, Green, Urner. NAYS: None. ABSTAIN: DeFilippis.

Mayor Curtis called for Reports of Standing Committees.

Councilmember Berko, Legal and Planning: We have been approached on the issue of sump pumps pumping water into the street creating ice in the winter and standing water. Our Borough Attorney sent an ordinance covering this issue that she had prepared for Lavallette. I sent it to Construction and Zoning. I would like to have it on the agenda for the next meeting. The matter with the Grenville was scheduled for hearing but has been put off because of their situation.

Councilmember Green, Parks, Grounds and Recreation, read the Bay Head Summer Recreation Summary. A copy of the report is attached to these minutes. I would also like to thank public works – the grounds look great.

Mayor Curtis: The Mayors Wellness Campaign was one of eleven towns in New Jersey designated as a Healthy Town. As part of the this campaign the first hour of the recreation program was physical activity. The counselors stated it was a wonderful way to start the program each day.

Councilmember Green: This Thursday there will be another walk with Mayor and me. The walk will start at the clock at 9 am and continue up

Lake Avenue to the beach. We live on a barrier island so please come out and join us. I want to thank all the members of the campaign. Please keep in touch with the web site to be aware of up coming events.

Mayor Curtis: Councilmember Barnes, Chairman of Public Services, is not with us tonight because she just gave birth to a baby girl. I would like to introduce Doug Applegate, Construction Official who is present and works under Councilmember Barnes. Bart Petrillo Zoning/Code Enforcement Officer also works under Councilmember Barnes.

Councilmember Glass, Public Safety: I work with the police and fire department. I would like to introduce Acting Chief Robert Hoffman, Ptl. Todd LaRue, Dispatcher Kelley Mickle and fire Chief, Chip Tillson. Don't forget the Clambake this Saturday at the Bay Head Fire House, rain or shine. I would also like to remind everyone to lock your bikes.

Chief Hoffman: We have also experienced a number of car burglaries. Please lock your cars and homes. We haven't seen forced entry – for the most part everything has been open.

Councilmember DeFilippis, Public Works, we don't do much in the summer months but shortly after Labor Day we will be starting three major projects. We will be paving four roads with the bidding to go out the 3rd week in September. The roadwork will be paid through a \$200,000 DOT Grant. Second will be the sewer lateral clean outs on Main Avenue which will allow a TV camera to be run through the system. We have completed some major work on Lake Avenue which convinced us to do this because of the reduction in cost payable to the Ocean County Sewage Authority. We hope to begin this work the end of September. The third project will be to rebuild the entrance to the Bay Head Fire House which will be paid by a grant received from CDBG.

Councilmember Urner, Finance: We are taking in money and paying out money. We thought we might run into a problem with the lateness of the tax bills being mailed, due to the State but that has been resolved. There was no local tax increase this year –approximately 50% of your payment goes to the county and 25% goes to the municipality and school. You will receive an increase of 2% next year.

Mayor Curtis introduced the following staff members where present: Robert Hoffman, Acting Chief of Police; Douglas Applegate, Construction Official and Public Works employee; Chip Tillson, Public Works Supervisor and current fire Chief; Kelley Mickle, Dispatcher (Commissioner of Police); Laura Tuzzolino, Deputy Borough Clerk, Secretary to the Planning Board and Technical Assistant; Todd LaRue, Patrolman; April Yezzi, CFO and Tax Collector; Jean Cipriani, Borough Attorney, Patricia Applegate, Municipal Clerk and Tom Gage, President of BHIA.

Mayor Curtis called for Ordinance for Second Reading, Public Discussion and Vote.

**Councilmember Berko offered Ordinance 2011-05 entitled:
AN ORDINANCE OF THE BOROUGH OF BAY HEAD,
COUNTY OF OCEAN, STATE OF NEW JERSEY AMENDING
AND SUPPLEMENTING THE MUNICIPAL CODE OF THE
BOROUGH OF BAY HEAD, SO TO AMEND CHAPTER
66, ENTITLED “ALCOHOLIC BEVERAGES”**

Councilmember Berko 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.

Stan Niedzwiecki, 42 Johnson Street: How is the penalty set?

Ms. Cipriani: The penalty is set by state law.

Mr. Niedzwiecki: So we can't raise it.

Ms. Cipriani: That is correct.

Mr. Niedzwiecki: Do the funds go to the town or state?

Ms. Cipriani: It is a Borough ordinance so the funds go directly to Bay Head.

There being no further comments or questions the public hearing was closed.

The motion to adopt was passed on roll call vote. YEAS: Berko, Green, Glass, DeFilippis, Urner. NAYS: None. A copy of the ordinance is attached to these minutes.

Mayor Curtis called for Ordinance, First Reading.

Councilmember DeFilippis offered Ordinance 2011-06 entitled:

**ORDINANCE OF THE BOROUGH OF BAY HEAD
COUNTY OF OCEAN, STATE OF NEW JERSEY
AMENDING CHAPTER 222 ENTITLED “VEHICLES
AND TRAFFIC” SO AS TO ADD CERTAIN LOCATIONS
TO SECTION 222-25 ENTITLED “SCHEDULE VII: STOP
INTERSECTIONS”**

Councilmember DeFilippis: This ordinance will allow the installation of stop signs at Bridge & East and Mount & East. Hopefully these signs will help prevent left hand turns onto East Avenue. Also as a side benefit it will stop some of the speeding on East Avenue.

Councilmember Green: I am happy to see it – there is speeding on East Avenue all the time.

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

Mayor Curtis called for Unfinished Business.

Councilmember Urner: We received a memo from Jean concerning Ameripay, our payroll service provider who filed for bankruptcy. They diverted money from our account causing us to have to pay \$13,000 for federal and states taxes. We have to sue to get out money back. How is that going?

Ms. Cipriani: It is still going through the process. It may take from four to six months for a decision to be rendered. Hopefully we will see dollar for dollar from the Bankruptcy Court. I can tell you, you are ahead of the private creditors.

Mayor Curtis called for New Business and Resolutions.

Councilmember Urner offered Resolution 2011-88 amending Resolution 2010-115 providing for salaries and compensation of Borough Officials and employees for 2011 and moved it be adopted. This motion was seconded by Councilmember DeFilippis and passed on roll call vote. YEAS: Berko, Green, Glass, DeFilippis, Urner. NAYS: None. A copy of the resolution is attached to these minutes.

Councilmember Urner offered Resolution 2011-89 requesting approval of items of revenue and appropriation and moved it be adopted. This motion was seconded by Councilmember DeFilippis and passed on roll call vote. YEAS: Berko, Green, Glass, DeFilippis, Urner. NAYS: None. A copy of the resolution is attached to these minutes.

Councilmember Urner: We are looking at 125 or cafeteria plans so that health insurance paid by the employee will be on a pre tax basis. We have a kind of deadline of October 1st. This will come up next month.

Mayor Curtis opened the meeting for Public Discussion.

Janet Allocca, 22 Howe Street: Concerning safety on East Avenue, I have noticed a number of cars going north, one way signs need to be replaced.

Councilmember DeFilippis: Yes, you will start seeing some changes the second week in September.

Bob Hein, 204 East Avenue: A shout out to the recycling center – it is wonderful.

Councilmember DeFilippis: Thank you. All residents are encouraged to drop off books and also to pick them up. I feel it is the most used public building in Bay Head. We will be sending another shipment of

books to Cairo for our service men. This was started when Col. Hein was stationed there.

Fred Bifulco, 417 Main Avenue: I would also like to compliment the Council on the Recycle Center but the information book needs to be corrected to list the correct hours that the center is open.

Mayor Curtis: That booklet is put out by the Bay Head Business Association.

Councilmember Glass: I will check into that.

Councilmember Berko: I see a lot of disappointed people arriving on the weekend and finding the center has closed. I feel it would be more beneficial to extend the closing hours.

Councilmember DeFilippis: I will go over it with Chip tomorrow.

Mike Conway, 200 Woodland Avenue: How is voting and non-voting defined?

Mayor Curtis: You must vote at your permanent residence. If Bay Head is not your permanent residence and you vote in another town you therefore don't have a vote in Bay Head to determine who is elected or the budget. Those who don't vote are just the same as everyone else and this special meeting lets us hear directly from you.

Frank Allocca, 22 Howe Street: Aside from the concern over site triangles what is the progress on the Historic District ordinance? From what I have heard it is going in the wrong direction of property rights.

Mayor Curtis: A committee was formed by the Planning Board. We have not seen any final recommendations. There is nothing to report at this time. I can say that public meetings will be held on the issue. It will not come before Council until at least two public meetings have been held on the final draft.

Mr. Allocca: I feel a town wide mailing needs to be done to notice us of these meetings.

Councilmember Glass: There will be a discussion this Wednesday at the Planning Board meeting on the draft ordinance concerning Historic Preservation. Mr. McCabe, Planner who worked with the committee will be present to discuss the draft ordinance.

Mayor Curtis: A copy of the final draft will be posted on our web site.

Joanne McAleavey, 541 Lake Avenue: I prefer to ride my bicycle on the sidewalk because of the heavy traffic on Lake, Main and Bridge. I find it very difficult because of the overgrowth. It is also a problem for walkers. Please take a look at that.

Mayor Curtis: People should be able to walk side by side down a sidewalk. We will send our inspector out to talk to the residents. The Borough does have the right to trim the overgrowth and charge the homeowner. Thank you for bring that up.

Councilmember Berko: Residents should also be notice that cars can't block the sidewalk.

Sam Evertz, 657 East Avenue: As to bridges and pathways over the dune. Homeowners paid to put the sand up there and now we are told that we must put a bridge to go over the dune. Has this ordinance been tested?

Councilmember Berko: The Dune Ordinance was adopted 15 years ago with certain standards. The dune is to protect not only the property on the beach but the rest of the town.

Councilmember Green: The Dune Ordinance was adopted after the 1992 storm. Bay Head and the ocean front residents have been stellar models. The ordinance was written for the protection of ocean front property. The BHIA also helps with the street ends.

Ms. Cipriani: The Dune Ordinance has not been tested. I feel very comfortable with DEP and state regulations concerning the dune. I do understand in Bay Head it is private property.

Chet Ehrman, 657 East Avenue: I am concerned about bicyclists and their aggressive attitude. It seems to be a game with young people to see how close they can get to your car. Also could they be made to walk their bikes across the street at the corner of Lake and Mount?

Chief Hoffman: It is enforced if we see it. We routinely stop children and talk to them. As to the car and bike traffic at the corner of Lake and Mount, I have an officer sit there two to three times a week for ½ to hour clip. Please call if you see anything.

Doug Breen, 66 Strickland Street: I was behind somone and they blew through the stop sign. Could the word stop be painted on the roadway?

Councilmember DeFilippis: We can but I don't know if it will help.

Mr. Breen: Is there anything new with the state concerning the repaving of Route 35? I am concerned with the water on Strickland Street.

Councilmember DeFilippis: The design has been done and DOT states they will be ready to start the 4th quarter of this year. They still need to obtain permits from DEP.

John Studdiford, 31 Egbert Street: The site triangle ordinance was adopted on December 20th, notices were sent the first of July and summons followed a few weeks later. I am trying to understand the statistical rational to have people removed older trees. How did we get there?

Councilmember Berko: It wasn't just passed. The law has been on the books forever. We had a situation in December concerning the height of fences, shrubs, walls all over town. We found there was a conflict in the ordinance concerning three foot height requirement in the front yard. Rather than keep that we broke the site triangle out and passed the ordinance in December. There should not be selective enforcement – the ordinance states the site triangle is measured 25' from each corner and height of 3 feet.

The Site Triangle Ordinance concerning height and how to determine it, age of trees and shrubs, and enforcement was discussed at length.

Councilmember Green: I appreciate your comments; I myself would have to recuse myself because we also received a summons. We have had to decimate our tree.

Councilmember Berko: The site triangle has been part of the ordinance for 30 years or more.

Ms. Cipriani: I will take a look at the language of the ordinance.

Mr. Studdiford: I feel you could amend the ordinance to place a grandfather clause to save 100 year old trees. Maybe a fee would have to be paid to let the tree stand. I would like to see you go back and do that. Can we have that done? The ordinance of December 19th states that buildings and retaining walls can remain so why not vegetation.

Ms. Cipriani: Many issues were discussed prior to the adoption of the ordinance. You aren't the first person to have a problem.

Councilmember Green: Can this ordinance be amended?

Ms. Cipriani: Yes.

Mayor Curtis: We will look at it.

Mr. Allocca: We ran into this in our community. If there has been no indication of a safety problem and no accidents maybe Council should suspend the ordinance for two years and do a study.

Bill Smith, 729 East Avenue: How long has the site triangle ordinance been around?

Councilmember Berko: 40 or 50 years.

Mr. Smith: I don't understand most of the trees were planted in that time – and now they can't be grandfathered – it doesn't seem consistent. If it was in violation they shouldn't have been planted or built.

Ms. Cipriani: It is a difficult argument to make to try and correct enforcement in the past.

Councilmember Berko: Except for fences and buildings we have no say as to plantings. It is only common sense if you can't see, then you should trim back.

Mr. Allocca: Common sense – what was the ordinance based on – center of intersection? If you have had no incidents or studies in the town you need to look to see if you really have a problem.

Councilmember Glass: I voted against the ordinance. When I did my survey I was told to take the height from the middle of the road.

Mayor Curtis: All points are well taken. We will look at it.

Robert Renzulli, 409 East Avenue: The jetty at Karge Street is deteriorating – has there been any thought as to what to do with it?

Mayor Curtis: Yes and no. We have talked about it and professionals have given quotes as to the repair. Mount Street is almost as bad and some work was done on it. When we went out to bid we took the lowest bid and we got what we paid for.

Councilmember Green: On August 22, engineers from Stephens Institute will be here to do a survey of the entire groin field. With their analysis we will review it as how to go forward. This survey and analysis will be of no expense to the taxpayers.

Councilmember Berko: Take a walk on the beach and see what effect the groins have on the beach. The smallest beach is north of Bridge Ave.

Tom Demcsak, 320 East Avenue: We had the same discussion last year. Now you will have a study a year later. This was mentioned last year. I would like to see something done not just a study.

Kelley Mickle: I work in the Police Department and if you are not here year round please make sure we have your contact information. You can also leave a key to your residence at the Police Department for emergencies.

Mayor Curtis: Thanks to everyone, it was an excellent meeting. We will have answers to you concerning the four issues you raised: site triangle, groins, historic preservation ordinance and sewers on Route 35. If anyone has any comments, concerns over ordinances, neighbors or laws please contact me. I have regular hours at Borough Hall on Monday, Tuesday and Friday from 11 am to 2 pm or can be reached at Central Market.

Mr. Marx Renzulli: Thanks a lot for doing this it is very considerate.

Councilmember Urner: I would urge everyone who doesn't resided here year round to subscribe to the Ocean Star for \$35.00. It carries all information that comes out of this body.

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, 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