

**BOROUGH OF BERNARDSVILLE**  
Mayor & Borough Council Meeting Minutes  
October 28, 2019

Mayor Canose called this meeting to order at 7:00 p.m. Present were Council Members John Donahue, Diane Greenfield, Jeff Hammond, Thomas O'Dea, Jr., Chris Schmidt, and Christine Zamarra. Also present were John Pidgeon, Borough Attorney, Ralph A. Maresca, Jr., Administrator/CMFO, and Anthony Suriano, Borough Clerk.

**STATEMENT OF PRESIDING OFFICER**

Notice of this meeting was provided to the Bernardsville News, Courier News and the Star Ledger, filed with the Municipal Clerk and posted on the Municipal Bulletin Board on December 11, 2018.

**PLEDGE OF ALLEGIANCE**

**PRESENTATIONS**

Mayor Canose said the borough has received a \$5,000 grant check from the Somerset County Cultural and Heritage Commission towards the mural project on Mount Airy Road.

**APPROVAL OF MINUTES**

Ms. Zamarra moved approval of minutes from September 23, 2019. Ms. Greenfield seconded and the motion was approved with six yes votes.

Ms. Greenfield moved approval of minutes from October 15, 2019. Ms. Zamarra seconded and the motion was approved with six yes votes.

**OPEN SESSION**

Olivia Manning, Downtown Bernardsville, thanked the Police Department for their resources at this past weekend's Trunk or Treat event at the train station lot. They also helped with assisting people to cross the street. She said she thanked other people on social media and the event was a success.

Alan Schacht, Peachcroft Drive, said he supports the deer management program and suggested setting it up so that it automatically renews each year. He said there are three components to deer management which are public health, public safety, and environmental aspects. Mr. Schacht suggested using 271 Mine Brook Road as borough property for deer management.

Steve Reynolds, Stevens Street, discussed contaminated soil on Stevens Street and Woodland Road. He said the notice says that Maddaluna Construction is going to install topsoil and assumes the borough is going to buy the topsoil. Mr. Reynolds asked how that works financially when the contract was awarded and now the borough is paying someone else to finish the work. Mr. Schmidt said this was discussed by the Public Works Committee. Mr. Macdowall said the cost for installing the topsoil is going to be deducted from monies owed to JTG Construction, and pursuant to discussion at the last meeting, the borough would split the cost with JTG. Mr. O'Dea said we are trying to expedite the paving of the road before the winter comes and that we are taking it out of spending from other road accounts that we had that were under budget. Mr. Reynolds said he checked the specs and there is no wording for clean soil and NJDOT approved topsoil in the bid and he feels that puts us out for exposure as a borough. He said Ferriero Engineering billed the borough 52 hours for curb and sidewalk inspection for this project and they did not inspect the water to get the hotbox switched. Mr. O'Dea said the Public Works Committee did a thorough review of Ferriero Engineering regarding this project at three different committee meetings. He said staff was asked to review Ferriero Engineering and make a recommendation. The recommendation was that Ferriero Engineering's involvement, while not perfect in this instance, have been addressed. The issues we feel they are responsible for and some responsibilities that Mr. Reynolds deems Ferriero's, is partially the Borough's. We are addressing this situation and trying to keep the residents on the street informed. The recommendation from the staff is that on balance, we should keep Ferriero Engineering. Mr. Reynolds mentioned the specs had no reference to NJ Residential Clean Testing Soil. Mr. O'Dea said the specifications for the soil that we are putting forward are consistent with the NJDOT requirements and we looked at going to a more stringent requirement above the NJDOT standards, but felt that going above those standards were tax prohibitive to the residents of Bernardsville. Mr. Reynolds said we are not meeting the standard. Mr. O'Dea asked Mr. Walker if we are meeting the NJDOT standards and Mr. Walker said we are. Mr. Reynolds said the specs of Ferriero Engineering for the Stevens Street and Woodland Road project do not indicate the soil has to meet NJ residential clean standards. Mr. Macdowall said the NJDOT standards and NJ Residential Clean standards are two different things. Mr. Reynolds disagreed. Mr. Macdowall added that we have talked about in future specs to possibly upgrade our standard and use the NJ Residential Clean standards. Mr. Reynolds said there is nothing about topsoil in the specs for this bid and it does not say anything about being NJDOT approved topsoil. Mr. Macdowall said the specs do mention that. Mr. Reynolds disagreed and added that he feels there are no consequences for the actions of Ferriero Engineering in billing 52 hours to inspect the curb, and not inspecting the water to get the hotbox moved.

Hearing no further comments from the public, Mayor Canose closed the open session.

### **ORDINANCES (Public Hearing)**

**Regarding Ordinance #2019-1810, AN ORDINANCE PROHIBITING MARIJUANA FACILITIES AND SUPPLEMENTING AND AMENDING SECTION 12 OF THE**

**BOROUGH LAND USE ORDINANCE ENTITLED “ZONING”**, Mr. Pidgeon said if amendments are made, the ordinance would have to go back to the Planning Board for comment. The Planning Board has 35 days to comment so the public hearing could be set to December 9<sup>th</sup>, giving the Planning Board enough time for review. Ms. Greenfield moved to amend Ordinance #2019-1810 to add CBD language, requirement of a certificate of analysis, and removing “and medical” from the signage section. This ordinance will be sent to the Planning Board, and the public hearing will be continued to December 9, 2019 at 7:00 pm. Mr. Schmidt seconded and a roll call vote followed. Mr. Donahue, Ms. Greenfield, Mr. Hammond, and Mr. Schmidt voted yes. Mr. O’Dea and Ms. Zamarra voted no.

Mayor Canose opened the public hearing on **ORDINANCE #2019-1821, ESTABLISHING FOUR-WAY STOP INTERSECTION AT BERNARDS AVENUE/GARIBALDI STREET INTERSECTION AND SUPPLEMENTING AND AMENDING CHAPTER VII OF THE BOROUGH CODE ENTITLED “TRAFFIC”**. Mr. Hammond moved to remove a sentence in this ordinance that referenced reducing the speed of vehicles. Ms. Greenfield seconded and the motion was approved with six yes votes.

Kerry Haselton, Mine Brook Road, thanked the Police Department for their efforts in getting this ordinance done and said having a four way stop will help walkability and public safety.

Hearing no further comments from the public, Mayor Canose closed the public hearing.

Mr. Schmidt moved to pass this ordinance on final reading and adopt as published. Mr. Hammond seconded and a call of the roll followed. Mr. Donahue, Ms. Greenfield, Mr. Hammond, Mr. O’Dea, Mr. Schmidt, and Ms. Zamarra voted yes.

Mayor Canose opened the public hearing on **ORDINANCE #2019-1822, CONCERNING BOROUGH SHADE TREE ORDINANCE AND SUPPLEMENTING AND AMENDING CHAPTER XIII OF THE BOROUGH CODE ENTITLED “TREE PROTECTION”**.

Mr. Pidgeon said there is an updated table regarding tree replacement in this ordinance that the Shade Tree Committee Chair advised of this afternoon. Mr. Hammond moved to accept the updated table. Mr. O’Dea seconded and a call of the roll followed. Mr. Donahue, Ms. Greenfield, Mr. Hammond, Mr. O’Dea, Mr. Schmidt, and Ms. Zamarra voted yes. Hearing no comments from the public, Mayor Canose closed the public hearing. Mr. Hammond moved to pass this ordinance on final reading and adopt as published. Ms. Zamarra seconded and a call of the roll followed. Mr. Donahue, Ms. Greenfield, Mr. Hammond, Mr. O’Dea, Mr. Schmidt, and Ms. Zamarra voted yes.

Mr. Pidgeon said Mr. O’Dea had suggested a range of membership on this committee instead of seven as currently written. Council decided on changing the membership to consist of five to ten members. Ms. Greenfield moved that Ordinance #2019-1823, **CREATING AN INFORMATION TECHNOLOGY/COMMUNICATIONS COMMITTEE AND**

**SUPPLEMENTING AND AMENDING CHAPTER II OF THE BOROUGH CODE**

**ENTITLED “ADMINISTRATION”**, be introduced by title, passed on first reading, published according to law, and that a public hearing be scheduled for a meeting beginning at 7:00 p.m., Tuesday, November 12, 2019. Ms. Zamarra seconded and the motion was approved with six yes votes.

Mr. Hammond said this ordinance is to prohibit vaping in public places where smoking is currently prohibited. Mr. Schmidt asked about how a citation for violation of this ordinance would be handled. Mr. Pidgeon responded that there would be a summons and the fine would be up to the judge. Ms. Zamarra moved that Ordinance #2019-1824, **PROHIBITING VAPING IN PUBLIC PLACES AND SUPPLEMENTING AND AMENDING CHAPTER III OF THE BOROUGH CODE ENTITLED “POLICE REGULATIONS”**, be introduced by title, passed on first reading, published according to law, and that a public hearing be scheduled for a meeting beginning at 7:00 p.m., Tuesday, November 12, 2019. Mr. Hammond seconded and the motion was approved with six yes votes.

**RESOLUTIONS**

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|----------------|--|
| <b>#19-204</b> | <b>AUTHORIZING PAYMENT OF BILLS</b>  |
| <b>#19-205</b> | <b>ACCEPTING MONTHLY REPORTS</b>   |
| <b>#19-206</b> | <b>AWARDING A CONTRACT FOR MUNICIPAL PARKING LOT<br/>SNOW PLOWING AND SIDEWALK CLEARING</b>                            |
| <b>#19-207</b> | <b>CONFIRMING A STARTING DATE FOR MATTHEW BROWN,<br/>SLEO III OFFICER</b>  |
| <b>#19-208</b> | <b>APPOINTING A MUNICIPAL PROSECUTOR FOR SHARED<br/>MUNICIPAL COURT FROM NOVEMBER 1, 2019 TO<br/>DECEMBER 31, 2019</b> |
| <b>#19-209</b> | <b>ACCEPTING A DONATION TO THE BERNARDSVILLE POLICE<br/>DEPARTMENT</b>   |
| <b>#19-210</b> | <b>AUTHORIZING TRANSFER OF FUNDS</b>   |
| <b>#19-211</b> | <b>COMMITTING \$83,333 TOWARD THE ACQUISITION AND<br/>CONVERSION OF A PROPERTY FOR A GROUP HOME</b>                    |
| <b>#19-212</b> | <b>SETTING RECREATION PROGRAM FEES</b>   |

**#19-213      AUTHORIZING REFUND OF STORMWATER ESCROW  
ACCOUNT #04-280-7000-0028 FOR MR. & MRS. NICHOLAS  
BOXTER FOR 2 PRESERVE**

**#19-214      APPROVING AFFORDABLE HOUSING MONITORING REPORT**

Regarding Resolution #19-208, Mr. Schmidt said the recently appointed Municipal Prosecutor of the shared court has resigned and a new appointment is being made in the resolution.

Regarding Resolution #19-206, Mayor Canose said the same vendor as last year won this year's bid for snow plowing and sidewalk clearing.

Regarding Resolution #19-211, Mr. Pidgeon said our Fair Share Plan has three group homes in it and our spending plan allocates \$250,000 to be spent among those three and this is the first one.

Ms. Zamarra moved to adopt Resolutions #19-204 to #19-214. Mr. Hammond seconded the motion and a roll call vote followed. Mr. Donahue, Ms. Greenfield, Mr. Hammond, Mr. O'Dea, Mr. Schmidt, and Ms. Zamarra voted yes.

**Municipal Attorney's Report**

There were no comments or questions from council on Mr. Pidgeon's report of October 23, 2019.

**Council Committee Reports**

**Public Safety Committee**, Mr. Schmidt said the committee has not met since the last committee report.

**Finance Committee**, Mr. O'Dea said the committee is doing budget planning for 2020 and had a kickoff meeting. There will be more updates in future committee reports as they progress on the 2020 budget.

**Personnel Committee**, Ms. Zamarra said there will be items for closed session.

**Engineering, Technology & Public Works Committee**, Mr. Macdowall said we had anticipated soil being placed on Woodland Road today, but rain yesterday made that difficult, so it should be placed tomorrow and seeding done on Wednesday. We are still waiting for Tilcon for exact dates of milling and paving. It is tentatively scheduled for November 4th. We have a meeting with JCP&L and NGC regarding the utility pole placement on Claremont Road. Mr. Walker said NGC suggested creating a 100 foot arc on the sidewalk. The pole could not be placed where we wanted it because of the gas main. Mr. Macdowall said we informed JCP&L that we were not happy with the way they are communicating with us. We received a permit

from NJDOT for drainage at Lindabury Avenue and Route 202. We have been making landscaping improvements at our pumping stations at Fox Hollow and Maple Village. Improvements to the Pill Hill pumping station will begin next week. We received an email from a resident concerning leaves on narrow roads. Mr. Macdowall will work with Chief Valentine and the Public Safety Committee to come up with a better enforcement mechanism. The committee is discussing a new proposed road moratorium policy. Mr. Schmidt said we used to have a JCP&L representative, Rob Walton, come to meetings but he does not come anymore. Mr. Pidgeon said Mr. Walton was promoted and now our representative is Carol Bianchi. Ms. Zamarra asked if we had any say in PSE&G doing night work on Route 202 as some cyclists have complained. Mr. Macdowall said we do not as that is a state road. Ms. Zamarra asked if the moratorium would not apply to Route 202 being it is a state road and Mr. Pidgeon responded yes, it would not apply.

Veterans' banners were discussed. Mr. Hammond said he had already purchased a banner for a deceased veteran who had no immediate family and the opportunity to donate to the trust was there but we had had limited time to publicize that charitable ability. Mr. O'Dea said the genesis of the discussion is that right now, in Bernardsville, if you want to participate in being honored, you have to pay or get someone to sponsor you. Other towns gave us examples and do not require that. Other towns say if you are a veteran and meet a criteria, your picture can be placed. They would then ask them to participate by giving a donation, but they just have to meet the criteria to participate. Mr. Schmidt asked if a person wrote a check, could it be put into a veterans' escrow account. Mr. Hammond said council had recently passed a resolution to establish such an account. Mr. Schmidt said he would cover up to \$2,500 for veterans who would like to participate but are unable to come up with funding. Mayor Canose said we can ask those that want to have a banner to make a donation, but it is not required because there will be money in the fund for those who cannot pay for a banner. Council agreed to this method.

#### **Other committee/commission reports**

**Housing,** Mr. Price said he submitted a new monthly report which included an update on multi-family conformance. He said he got a quote for cleanup at 131 Mount Harmony Road in reference to Resolution #19-201, which authorized the cleanup of that property and placement of a lien on the property to cover the cost of the cleanup. He said the quote is from Research & Design Landscape, LLC for \$3,900 for the cleanup, \$1,000 for leaf cleaning, and there was an amount for additional monthly cleanups. Mr. Pidgeon suggested not doing a monthly cleanup and doing the minimum amount of work to keep it from being an eyesore. He also suggested entering into a retainer with a contractor at reorganization for these types of cleanups. Mr. Schmidt moved to authorized \$3,900 for the cleanup of 131 Mount Harmony Road pursuant to Mr. Maresca's certifying funds available. Mr. Hammond seconded and the motion was approved with six yes votes. Mr. Hammond said he would like to clarify the definition of junk and have an ordinance at the next meeting.

Ms. Zamarra asked about the Fishing Derby. Mayor Canose said there are plants that create a barrier and fishing lines would get tangled, so the derby did not take place this fall. There is also not enough room for one hundred kids. Mr. O'Dea suggested splitting participants into various age groups so with less participants at one time, they might be able to have enough room to hold the event. Due to the popularity of this event, this topic will be referred back to the Recreation Committee to find a solution and work with the Environmental Commission to hold it again next spring. Ms. Zamarra suggested the Great Swamp assist in finding a solution. Mr. Donahue said he would take this suggestion to the committee.

### **Council Liaison Reports**

**Environmental Commission**, Mr. Donahue said he was unable to attend the last meeting.

**Recreation Committee**, Mr. Donahue said the veterans' banners have arrived. The fishing derby was discussed earlier. The committee discussed putting eight foot high baskets for younger kids at the basketball court. There is a need for more lifeguards and with a new minimum wage in place, we should review with Finance for budget purposes. Mayor Canose said lines are being put in for a pickleball court on the basketball court.

**Shade Tree Committee**, Mr. Hammond said the committee discussed 2020 events at their last meeting and how they can better leverage social media to get information out. They also would like to bring back a pruning workshop.

**Board of Health**, Ms. Greenfield said the Board did not meet since the last report.

**HPAC**, Ms. Greenfield said the barn at Dunster Squibb is painted, decorated for Halloween, and lit at night.

**Green Team**, Ms. Zamarra said the Green Team received a grant and Sustainable Jersey got a bronze award that will be received at the upcoming NJ League of Municipalities conference in November.

### **ITEMS OF BUSINESS**

#### **2020 Parking Decals (Commuter and Merchant)**

Council decided to set the number of decals sold for the Ammerman Lot on Mount Airy Road at 65, regardless of whether or not they have a Planning Board or Board of Adjustment requirement. A resolution regarding parking decals will be on the November 12<sup>th</sup> meeting agenda.

**Best Practices Worksheet**

Mayor Canose asked the question on the worksheet regarding personal vehicles. Mr. Maresca said we need a policy in writing for that topic. Mr. Hammond asked if there is anything we prioritize for next year that we are not doing now. Mr. Maresca said we could document things better. Mr. Hammond said we have no electric vehicles. Mayor Canose asked about cyber security. Mr. Maresca said the Suburban Municipal JIF views that topic very extensively.

**Deer Management, Potential New Additions of Borough Property**

There were two properties discussed to add to the deer management plan, 251 Claremont Road and 261 Claremont Road. Mr. Hammond had concerns with 251 Claremont Road. Mike Anderson, NJ Audubon, spoke about hunting safety. Peter Birnbaum, Round Top Road, said hunting has been going on for decades and it is a matter of letting people know about it. Mr. Hammond asked how hunters know where the property area ends. Mr. Birnbaum said they use apps that show property lines. The property at 271 Mine Brook Road was mentioned and it was stated that the borough does not own 271 Mine Brook Road or 261 Claremont Road. Ms. Zamarra moved to add 251 Claremont Road to the deer management plan. Mr. Donahue seconded and the motion was approved with six yes votes.

**Mayor's Update**

Mayor Canose said she met with Carol Bianchi of JCP&L and said they have grants available that may apply to our mural project. Downtown Bernardsville had a community meeting on October 16<sup>th</sup> about the mural and some themes included buildings such as the library and cows. High school students are documenting the mural project and will make a video of how this all comes together. Artist, Karen Frost, and the high school art teacher will take all themes that were given at the meeting and put them into a spreadsheet. On October 22<sup>nd</sup>, the Mayor, the Downtown Revitalization Committee, and condo owners around Olcott Square met and they are all excited and voted unanimously to be a part of the Quimby redevelopment project. The community crisis meeting was also that night that Mr. Hammond and Ms. Zamarra attended. Mayor Canose said she officiated her first wedding and suggesting changing the fee in the ordinance of \$100 for the Mayor to officiate a wedding. Mr. O'Dea suggested making the fee optional and having it designated where to go.

**Correspondence**

There was none.



**Unfinished Business**

Mr. Hammond said placement of the veterans' banners will be done using a random number generator.

Discussion took place earlier in the meeting about the continuation of Ferriero Engineering as the borough's engineering firm. It was moved and seconded to continue using Ferriero Engineering. The motion passed with five yes votes. Mr. Donahue voted no.

**New Business**

Mr. Hammond discussed the need for commercial property that is vacant. He said we could establish a definition, require registration, and require insurance. He said we have that requirement for residential properties but not for commercial. Mayor Canose suggested more legal review on this topic. Mr. Hammond said this is not meant to be punitive. Mayor Canose asked if we inspect vacant properties. Mr. Price said the Fire Marshall does. Mayor Canose said this topic will be referred to the Housing Committee for review.

**OPEN SESSION**

Bob Baker, Olcott Avenue, said we got certification from Sustainable Jersey. He said we get grants, fleet management, e-waste, well testing, tree ordinance, Environmental Commission, and deer management. He thanked council for their efforts.

Hearing no further comments from the public, Mayor Canose closed the open session.

**CLOSED SESSION**

It was moved to adjourn to an executive session to consider Personnel Matters and Collective Bargaining, and that the time when and circumstances under which the matter can be disclosed to the public is when it is finally resolved. The motion was seconded and approved with six yes votes.

**REOPEN**

It was moved and seconded to reopen the meeting to the public. The motion passed with six yes votes.

**ADJOURNMENT**

The meeting was adjourned at 10:00 p.m.

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