

BOROUGH OF BERNARDSVILLE
Mayor & Borough Council Meeting Minutes
February 8, 2021

Mayor Canose called this meeting to order at 7:00 p.m. remotely via Zoom. Present were Council Members John Donahue, Jeff Hammond, Jena McCredie, Chad McQueen, Thomas O'Dea, Jr. and Christine Zamarra. Also present were John Pidgeon, Borough Attorney, Tom Czerniecki, Administrator, 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 24, 2020.

PLEDGE OF ALLEGIANCE

PRESENTATIONS

Dam Project, present to discuss this topic were Doug Walker, Bob Brightly, and Environmental Commission members Johanna Wissinger, Kristi MacDonald, and Kerry Haselton. Mr. Walker said we received an extension through January 30, 2022 for our plan and permit application submission. He said we have to have a preliminary plan by June 30, 2021. He said the Environmental Commission had questions about the breach and he sent the questions and responses, by Ferriero Engineering, to the Mayor and Council. Mr. Walker said if we do the breach it would reduce further maintenance costs and limit future exposure. He said if we do the reconstruction on the dam, we do not have to dredge it but we will have to remove some material. Mr. O'Dea said we are not saying that the entire footprint of the existing pond be wetlands in the future, but that is part of the evaluation. Mr. Brightly said a lot of the initial work is going to be done by environmental consultants and Ferriero's work is more hydraulics. Ms. Wissinger said she is concerned about a 500 year storm. She wanted to know if the controlled structure is going to allow wildlife to come through as this is what environmentalists are concerned about. Ms. Wissinger said another environmental concern is salvaging and relocating fish. She said her purpose is to make sure that as many things that relate to the environment are considered and that we don't endorse something that doesn't truly benefit wildlife habitat or could cause future flooding. Mr. McQueen asked if the Environmental Commission had a recommendation and Ms. Wissinger said they do not, and she does not want to divide the Commission members. Mayor Canose suggested having community input on this topic. Mr. Walker said there are grants available to fund a removal project. There will be a contribution from NJ Transit depending on the type of project. Mr. Walker said if we keep the dam we might get somewhat more of a contribution from NJ Transit. Kristi MacDonald, Raritan Headwaters Association, said if we are considering removing the dam, a good place to start would be to meet with Fish and Wildlife Service and Natural Resource Conservation Service to get an ecological sense of how important it is to take it down and whether it is worth pursuing. These are the federal agencies that will pay for taking dams down. She said she assumes we will have to dredge it at some point if we are going to keep it as a pond. Mayor

Canose suggested Mr. Walker meet with Ms. MacDonald first as a smaller group and then coming to a larger group and presenting their findings. Mr. Walker said he will get pricing for certain items.

OPEN SESSION

Mayor Canose opened the meeting to the public.

Peter Birnbaum, Round Top Road, asked if we breach the dam, what liability or measures are we going to potentially be required by the state regulations for any flows that are coming down the stream. He said Mr. Brightly knows how many dams have needed to be upgraded and remediation plans in the past three years. Mr. Walker said the streams course and flows will all have to be engineered to prevent downstream flooding as much as possible during a 100 year storm. Mr. Birnbaum asked how far downstream we are responsible for. Mr. Walker said there would be limits as to how far we would have to go. He said we have the inundation map that shows if there is a failure of a flood and that would be our baseline area that we would focus on.

Johanna Wissinger, said she wanted to clarify her views of the NJDEP allowing the borough more stringent controls and that the reason is they have a whole lot on their plate such as no lead in water and offshore dumping. She said there is heightened awareness about storm waters and what municipalities should be doing to ensure enforcement and tweaking ordinances. She said she is going to have a subcommittee as a lot has come to the surface. She said the Environmental Commission has a responsibility of helping educate the public of why we think it is so important to manage stormwater. She said borough staff has to put together what is best for our municipality to work on stormwater. She said it is important for our municipality and Environmental Commission to protect our water quality and quantity.

Kerry Haselton, Mine Brook Road, encouraged the council to think about the topography of our town. She said we have two hills and we end up in the valley of the mine brook running through where all of our infrastructure is and all stormwater is coming to that one spot. She asked council to make sure what we come up with is dovetail to our unique situation and not a one size fits all NJDEP idea of what could work. She suggested looking at model ordinances that come from ANJEC and look at our unique area.

Mr. Hammond said he thought the March 3rd date was a firm deadline. Mr. Pidgeon said that is a hard and fast deadline.

Kristi MacDonald said she understands we are basically fulfilling the minimum new NJDEP requirements for the stormwater ordinance by March 3rd, but she feels we will still need other additions to the ordinance in the future. She said storm water is the major source of pollution to our waterways and the ocean. She said climate is changing and we are getting more rain in NJ and bigger storms and millions of gallons of water are rushing through our stream which causes a lot of damage. She said there is a new bill that will require municipalities to address climate vulnerability in their master plans and a very strong stormwater ordinance, stronger than the basic NJDEP requirements, is going to be necessary for our municipality to save money and

address that problem. She said requiring stormwater plans and maintenance plans on major and minor development is a critical thing which really needs to be enforced and checked.

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

ORDINANCES (Public Hearing) - None

ORDINANCES (Introduction)

Mr. McQueen said his major issue with this ordinance is the continuation of minor regulations specifically for the inspection on a yearly basis. He said his issue is with enforcement and the only solution is a deed restriction. He said this provision is more stringent than the state and he is looking for having enforcement on the books that does not have deed restriction involvement or this to be removed from the ordinance before moving forward. Mr. Price said at the sale of the house the new owners would be required to know they have a stormwater management system on their property. He said last year out of 170 houses sold, about 10 to 12 had stormwater facilities, but this would only catch the houses that were sold that had a stormwater on them and not all of houses. Mr. Brightly said the NJDEP amended their rules in 2020 and changed the terms of the borough stormwater permit that requires the borough to adopt new stormwater rules by March 2nd. He said rather than waiting to consider more stringent rules, we need to adopt the new definition of major developments and also that stormwater management requirements are met using green infrastructure. He said if we adopt this we could always come back to it as there is no time frame for making it more stringent. He said as far as the minors, he and Mr. Price recommended putting a deed notice to let a future property owner know there are stormwater management facilities on their property. Mr. McQueen asked if the language for minor restrictions in the annual report is more restrictive than the NJDEP current language and it was noted that is correct. Mr. McQueen said that is his primary concern as it puts a hardship on the homeowner. Ms. Zamarra moved that Ordinance #2021-1872, **AN ORDINANCE AMENDING STORMWATER REGULATIONS AND SUPPLEMENTING AND AMENDING SECTION 29 OF CHAPTER 12 IN THE BOROUGH LAND USE CODE**, 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., Monday, February 22, 2021. Mr. Hammond seconded and the motion was approved with five yes votes. Mr. McQueen voted no.

Mr. O'Dea moved that Ordinance #2021-1873, **CALENDAR YEAR 2021 ORDINANCE TO EXCEED THE MUNICIPAL BUDGET APPROPRIATION LIMITS AND TO ESTABLISH A CAP BANK (N.J.S.A. 40A:4-45.14)**, 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., Monday, February 22, 2021. Mr. Hammond seconded and the motion was approved with six yes votes.

Ms. Zamarra moved that Ordinance #2021-1874, **BOND ORDINANCE PROVIDING FOR THE IMPROVEMENT OF VARIOUS ROADS IN AND BY THE BOROUGH OF BERNARDSVILLE, IN THE COUNTY OF SOMERSET, NEW JERSEY, APPROPRIATING \$1,511,000 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$915,000 BONDS OR NOTES OF THE BOROUGH FOR FINANCING SUCH**

APPROPRIATION, 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., Monday, February 22, 2021. Mr. Hammond seconded and the motion was approved with six yes votes.

RESOLUTIONS

- #21-45 AUTHORIZING PAYMENT OF BILLS**
- #21-46 AUTHORIZING REFUND OF MAINTAINENCE BOND ESCROW
TO DCL HOLDING FOR 25 MILL STREET**
- #21-47 AUTHORIZING REFUND OF OVERPAYMENT OF 2018 TAXES
FOR TAX COURT OF NJ APPEAL, 60 OVERLIEGH ROAD**
- #21-48 CHANGING THE CUSTODIAN OF THE FINANCE OFFICE
PETTY CASH FUND**

Mr. Donahue moved to adopt Resolutions #21-45 to #21-48. Ms. Zamarra seconded and the motion was approved by the following roll call vote. Mr. Donahue, Mr. Hammond, Ms. McCredie, Mr. McQueen, Mr. O'Dea, and Ms. Zamarra voted yes.

ITEMS OF BUSINESS

Diversity Policy

Mayor Canose asked if we have budgeted training for the diversity policy. Mr. O'Dea said the Finance Committee has not discussed this yet and they will at their meeting this Wednesday. Mr. Hammond estimated the cost to be about \$15 to \$20 per person. Council discussed the training being permissive for Fire and First Aid volunteers, limiting the number of volunteers to sign up in a given year to 20, and making the training session tri-annual. Mr. Czerniecki will review the policy and training cost.

Correspondence

Ed English asked for temporary parking signage for the Winter Farmers' Market. Chief Valentine had recommended to Mr. English via email that there was no need to change the ordinance and pursuant to Section 7:7-2 of the Borough Code, we could erect temporary no parking signs that we can remove after March 31st. The Farmers Market has agreed to pay for the signs and the Police Department will coordinate the installation of the signs on existing signposts. Additionally, Mr. English will place barricades on Friday night at the entrances to the parking lot area used by the market with the signs posted on them as well. Council agreed to this recommendation as long as the signs have language that is as clear as possible to avoid any misinterpretations, and also language based on what Chief Valentine feels is enforceable.

Mayor's Update

Mayor Canose said she felt bad she was unable to attend Mr. Maresca's last meeting and welcomed Mr. Czerniecki to his first meeting as new Borough Administrator. Mr. Czerniecki thanked the Mayor and said he looks forward to working with the Mayor and Council, borough staff, and our community. Mayor Canose said on January 13th there was a meeting with the Transit Village Committee and they gave us very positive feedback and liked all the things we are doing. They said there is no deadline for the application and they will work with us to get the Transit Village designation. Mayor Canose said this will work together with Quimby Village and the advantage to getting the designation is there is a lot more grant money available. Mayor Canose, Mr. Hammond, and Ms. Zamarra attended the last Somerset County Governing Officials Association meeting and the Association has rescheduled the gala for June. Mayor Canose said County Commissioner Morano gave an overview of the county's year. On February 3rd, the County Clerk and Surrogate offices will be open until 6:00pm on Wednesdays to allow for people who are working during the day. Somerset County is the first in NJ to be recognized by the AARP as an age friendly community. Mayor Canose said the County LGBTQ+ Advisory Board is going to be offering seminars. Somerset County processes 412,000 pounds of hazardous waste, recycles 31,000 tons of material, has 18,000 acres of open space, 8,100 acres of farmland, and they provided 180,000 meals to residents. The Somerset County Governing Officials Association's next meeting is this Wednesday and the President/CEO of Robert Wood Johnson University Hospital Somerset will be speaking. Somerset County has a Hope and Healing Program which is a free program for anyone having mental health issues due to Covid. The county has announced open space grants for recreation projects which she shared with Bob Markowick. Mr. Markowick is working on grants for the walking path and pickleball courts. Downtown Bernardsville is putting together a sponsor package. Painting sessions for the mural have taken place with the next one coming up on February 13th and February 20th. There is a link on the borough website to sign up to paint and the unveiling will be on Memorial Day. Mayor Canose said this morning she attended a legislative brief by the NJ League of Municipalities on Bills 1571 and 1576. She said the bills impose prevailing wage on any public work or properties that are receiving a tax abatement, tax exemption, or pilot program. She said this would also affect affordable housing. Mr. Donahue suggested going on record opposing these bills. Mayor Canose said the NJ League will be sending sample resolutions opposing the bills which we can adopt and send to legislatures.

Unfinished Business

Public Works, Mr. Hammond thanked the Public Works Department for their hard work during the recent major snowstorm. Mayor Canose said residents were very pleased with the work they did in clearing the roads. Mr. O'Dea said his wife traveled to work at Morristown Hospital when it was snowing heavily and commented that our roads were the best cleared roads.

RFPs, Mr. McQueen asked if the committee met to review RFPs. Mayor Canose said the only one we are dealing with right now is for the Audi Dealership. She said Mr. DeMarco is looking to set up a meeting with the developer who submitted a proposal, the owner, attorneys, and Topology. Mayor Canose said they are working on a concept plan which was a requirement in the RFP and once we have that, the Redevelopment Committee will meet and review it, and then bring it to council. It was noted the Train Station RFP is due February 26th and the Quimby Lane

RFP is due February 18th. Regarding the train station, Mayor Canose said there was a question from Dan Lincoln about whether the counter inside the train station building could be removed due to it being considered historic and Mr. Lincoln took the position it could not be removed. It was noted a bidder did not want to bid because of this. Mr. Hammond said if we are starting to lose bidders, we should get an official opinion in writing about the counter. Mr. Pidgeon will follow up. Ms. McCredie asked about promoting and getting the word out about the RFP for Quimby Lane. Mr. Suriano said he had a list of developers and they were sent emails to the link of the Quimby Lane RFP. This included the three developers who responded to the original RFP. Mr. McQueen asked Mr. Czerniecki to assist with promoting the RFP.

New Business

Ms. McCredie acknowledged and thanked staff members Bob Markowick and Geoff Price for always being in attendance at council meetings.

Recreation Pickleball, Mr. Markowick said he is getting quotes for a pickleball court but due to the snow that may need more time. He said the pickleball court would be in the parking lot area by the basketball courts and there would still be access to the pool. They are looking to have four pickleball courts. Mr. Markowick said he will have some seniors who play pickleball come and speak to council. He said the Recreation Steering Committee will meet on Wednesday and Brandstetter Carroll will participate.

Recreation Skiing, Ms. Zamarra said parents are very pleased with the skiing programs offered by Recreation. Mr. Markowick said they are planning a family fun day which will be at a discounted rate for anyone who wants to go on that day.

CLOSED SESSION

It was moved to adjourn to an executive session to consider Pending Litigation 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.

ADJOURNMENT

The meeting was adjourned at 9:40 p.m.

Anthony Suriano