

**BOROUGH OF BERNARDSVILLE**  
**Mayor & Borough Council Meeting Minutes**  
**April 24, 2023**

Mayor Mary Jane Canose called this meeting to order at 7:00 p.m. Present were Council Members Jay Ambelang, Diane Greenfield, Jena McCredie, Chad McQueen, Al Ribeiro, and Christine Zamarra. Also present were John Pidgeon, Borough Attorney, Nancy Malool, Administrator, and Anthony Suriano, Borough Clerk.

**STATEMENT OF PRESIDING OFFICER**

Notice of this meeting was provided to the Bernardsville News and Courier News, filed with the Municipal Clerk and posted on the Municipal Bulletin Board on December 15, 2022.

**PLEDGE OF ALLEGIANCE**

**PRESENTATIONS** - None

**APPROVAL OF MINUTES**

Ms. Greenfield moved approval of minutes from March 27, 2023 and April 10, 2023. Ms. Zamarra seconded and the motion was approved with six yes votes.

**OPEN SESSION**

Mayor Canose opened the meeting to the public.

Olivia Manning, on behalf of Downtown Bernardsville, said April 30<sup>th</sup> through May 6<sup>th</sup> is National Small Business Week and they will be doing some promotions. She requested permission for a slight extension of the sidewalk sale ordinance. She said the ordinance limits sidewalk sales through 6:00pm and they would like to have the sales through 8:00pm. She said the dates would be May 4<sup>th</sup> and May 6<sup>th</sup>. She said Downtown Bernardsville would also like to request a spot at Fenwick Park and have some music playing, especially on Saturday, May 6<sup>th</sup>. Mr. McQueen moved approval of Downtown Bernardsville to have stores hold a sidewalk sale on May 4<sup>th</sup> and May 6<sup>th</sup> to 8:00pm and for Downtown Bernardsville to be at Fenwick Park during sidewalk sales with music. Ms. Greenfield seconded and the motion was approved with six yes votes. Council asked Mr. Pidgeon to amend the ordinance for future requests.

Chris Herold, Bedminster resident and owner of Mine Brook Properties, talked about the Quimby Lane redevelopment project. He said there were certain items that Advance Realty as developer were to accomplish as part of the Developer's Agreement. He said the agreement was signed in January 2022 with approximately 15 items to accomplish and he does not believe anything has been accomplished. Mr. Herold said many people in that zone that he has been in contact with have had a lot of angst during this year and are not going to be able to do anything. He said there are two vacant spaces and a lot of interest in them, but people back away because they don't think that they can move forward and are concerned about condemnation. He said

while it's been said there's no condemnation, section 2A of the Developer's Agreement says there's a possibility of eminent domain. He said no one wants to put money into their businesses because they might lose it and tenants are concerned they're going to be kicked out. Mr. Herold said people in these zones want to have this resolved and if the developer has not made any of these commitments that are stated in the Developer's Agreement, they should be eliminated from being the developer in that zone. Mayor Canose said we have a Redevelopment Committee and their first task is to assess where we are with the contract and make a recommendation to council.

Kerry Haselton, said with respect to outdoor dining, there is an ordinance that says that there has to be some kind of area delineating the outdoor dining and beyond that there's got to be four feet of sidewalk. She said in going around town she's noticed there are businesses that do not meet the four feet requirement. She said she is not sure if the four feet includes the curb, which is about six inches, and is not always flush. Ms. Haselton said she is concerned about people with strollers or people with movement disabilities. She said it's important that businesses need to comply with our ordinance. She said if we don't enforce it now we're just going to have a cascading amount of people not complying because they see others not complying. Ms. Greenfield said the Housing Committee is working on this topic.

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

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

Ordinance #2023-1960, **APPROVING A REDEVELOPMENT PLAN FOR 35-39 OLCOTT SQUARE & 5 MORRISTOWN ROAD.** Mayor Canose said she is on the Planning Board and they had a meeting last week where they had a good discussion about the redevelopment plan. She said it was approved as being not inconsistent with the master plan, but the Planning Board sent some recommendations which have been reviewed by the Borough Planner and most of which have been incorporated into the plan. Mr. DeMarco said there were 20 comments or recommendations from the Planning Board and gave a summary of them. He said they discussed them with Mr. Pidgeon and there was no major variation that would require council to refer it back to the Planning Board. He said one of the changes was an additional parking requirement and as a result of that, the ordinance needs to be reintroduced as amended. He said it is in front of council tonight to be reintroduced as amended and to set a public hearing at the May 8<sup>th</sup> council meeting at 7:00pm. Mr. DeMarco discussed the additional parking requirement stating that there was no standard for a restaurant which would make it very problematic. Ms. Greenfield said she requested that the site plan and elevation plan be sent to the Planning Board prior to their meeting, and was told that it would but it was not. She said because of this, the Planning Board did not base their review on complete information for this project. Mr. DeMarco said there is no full site plan and they received a copy of the concept plan. Ms. Greenfield said they did not get a copy of the elevation plan. Mayor Canose said the Planning Board's job was to see if it's not inconsistent with the master plan and not review an actual site plan which will come later. Mr. McQueen said one of the things that the Planning Board indicated was that if the condition of one parking spot for four seats was met, it could have Zoning Officer approval and not go to the Planning Board for that particular condition. Mr. DeMarco said the reason why this needed to be added is without that, the Zoning Officer would not know what to do because there's no standard to be applied, so now there's a standard.

Mayor Canose opened the public hearing on Ordinance #2023-1960, **APPROVING A REDEVELOPMENT PLAN FOR 35-39 OLCOTT SQUARE & 5 MORRISTOWN ROAD**

Joe Rossi, Crest Drive, said there are parking issues in town and it creates problems for all of the tenants, businesses, and anyone coming to town. He said when new properties are being built the parking ordinances should be adhered to. He said we should straighten out illegal parking like we did years ago. He said the center of town has to be looked at, the lanes have to be widened to new specs, there needs to be new turning radiuses for trucks, and new crosswalks have to be installed. He said not to build a building and a complex without that.

Jeff Hammond, Flintlock Court, said the corner at the traffic light on Mount Airy Road needs to be remediated as it's too narrow and not safe. He said you cannot get a wheelchair through that area. He said the parking lot at the Palmer property is underutilized. He said he does not think the solution to fixing those problems is the project that's being proposed. He said he agrees with Ms. Greenfield's comments from the meeting before last. He said he feels the project is too large. He said it may be not inconsistent with the master plan but that doesn't mean it's consistent with our vision, and with the characteristics of the town. He said we should not let Advanced Realty off the hook. He believes the project on Quimby Lane has stalled and fears that they will develop the Palmer property and then say they can't do Quimby. He said Quimby, not Olcott Square, is the eyesore that's holding back the vitality of the town.

Joe Rossi, Crest Drive, said without buildings being leveled we will not be able to have the proper line of sight up and down Route 202.

Mr. McQueen moved to amend this ordinance and continue the public hearing to May 8, 2023 at 7:00pm. Ms. Zamarra seconded and the motion was approved by the following roll call vote. Mr. Ambelang, Ms. Greenfield, Ms. McCredie, Mr. McQueen, Mr. Ribeiro, and Ms. Zamarra voted yes.

Mr. Ribeiro said he wanted to lay out the exact steps. At the next meeting council is going to consider the development plan, which is basically an overlay of the zoning ordinance. We had a public hearing tonight and will have another public hearing on May 8<sup>th</sup> for the amended ordinance. Based on that, there will be a negotiated contract with the developer, which is the developer's agreement, and it will come back to council. Once that's agreed and assuming everything passes, then the developer goes to the Planning Board and follows the normal process based on the agreement and the redevelopment plan. Mr. Ribeiro asked if there is a public hearing at that point. Mr. DeMarco said a developer has not been designated yet. He said with that designation comes a redeveloper's agreement which will have extra precautions, timelines, and things of that nature. Once they satisfied the requirements, they are then free to utilize the Redevelopment plan. He said the Redevelopment plan has an administration portion which we cannot avail ourselves to any of this if we don't select the developer. He said we can go through all of this and it can be determined that we can't meet our minds so the project doesn't move forward. He said after that is done they are free to get a site plan application. Mr. Ribeiro asked if we want an additional public hearing or a public presentation, could we put that into the agreement. Mr. DeMarco said we could. He said what was added in this plan is that prior to their site plan application or anything else, they have to provide a content plan to Council. He said

that's not normally required but it's in the redevelopment plan that it comes to council for their comments and criticism before they actually submit it. Mayor Canose asked if at the Planning Board meeting, the public will have an opportunity to comment. Mr. DeMarco said yes. Ms. Greenfield asked if the public will have an opportunity to comment and reflect change in the plan. Mr. DeMarco said the redevelopment plan sets the zoning and what comes up in the zoning, and there is always opportunity to comment on. He gave examples of moving a tree, changing the color scheme, and adding more windows. Mr. Ribeiro asked if the actual height and setback required was clarified. Mr. DeMarco said there was no recommendation regarding setbacks made by the Planning Board. He gave examples from current zoning and the redevelopment plan regarding height and setbacks. Mr. Ribeiro asked if the line of sight around the corner would be articulated in a traffic study. Mr. DeMarco said the Borough Engineer would review that or a traffic engineer if the Planning Board chooses to hire one. Mr. Ribeiro asked when a PILOT will be discussed. Mr. DeMarco said that would be up to council. Mr. Ribeiro asked how the current tenants would be taken care of. Mr. DeMarco said it can be put into the agreement that they need to present a relocation plan. Mr. McQueen said he is in favor of that.

Mayor Canose opened the public hearing on Ordinance #2023-1961, **AN ORDINANCE AMENDING SALARY ORDINANCE #2023-1955**. Hearing no comments, Mayor Canose closed the public hearing. Ms. Zamarra moved to pass this ordinance on final reading and adopt as published. Mr. McQueen seconded and the motion was approved by the following roll call vote. Mr. Ambelang, Ms. Greenfield, Ms. McCredie, Mr. McQueen, Mr. Ribeiro, and Ms. Zamarra voted yes.

Mayor Canose opened the public hearing on Ordinance #2023-1962, **REPEALING LOCAL PAY TO PLAY ORDINANCE THAT HAS BEEN PREEMPTED BY P.L.2023, c.30 AND AMENDING CHAPTER 2 OF THE BOROUGH CODE ENTITLED "ADMINISTRATION"**. Hearing no comments, Mayor Canose closed the public hearing. Mayor Canose said she shared the NJ League of Municipalities stance on this topic with council. She said the Governor signed it so it's a done deal. Mr. Pidgeon said all we're doing is taking the language out of our code because we cannot enforce it. Mr. Ambelang moved to pass this ordinance on final reading and adopt as published. Ms. Greenfield seconded. Mr. Ribeiro said now that we're considering development in town, this is stripping away all local pay-to-play ordinances and it's raising the amount that businesses can give to political parties and to individual candidates. He said while Bernardsville is a small town and it's not likely to impact Trenton if we take a stand, sometimes taking a stand matters as this is weakening our local laws. The motion to adopt was voted on by the following roll call vote. Mr. Ambelang, Ms. Greenfield, Ms. McCredie, Mr. McQueen, Mr. Ribeiro, and Ms. Zamarra voted no and Ordinance #2023-1962 was not adopted.

### **ORDINANCES (Introduction)**

Ms. Greenfield moved that Ordinance #2023-1964, **AN ORDINANCE ESTABLISHING A FEE FOR THE REGISTRATION OF CERTIFICATES OF INSURANCE BY OWNERS OF BUSINESSES AND RENTAL UNITS IN COMPLIANCE WITH N.J.S.A. 40A:10A-2**, 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, May 22, 2023. Mr. Pidgeon said the Zoning Department already notified residents that there would be no fee and this

ordinance would be going against that as it establishes a fee. There was no second and the ordinance was not introduced.

## RESOLUTIONS

- #23-101            AUTHORIZING PAYMENT OF BILLS**
- #23-102            AUTHORIZING REFUND OF BOA ESCROW FUNDS  
REGARDING BOA APPLICATION #20-01, APPEAL LITIGATION  
- SAVAS**
- #23-103            AMENDING RESOLUTION #23-41 WHICH ESTABLISHED  
PRELIMINARY COSTS FOR AN ENGINEERING STUDY OF A  
SEWER LINE EXTENSION FOR 65 MORRISTOWN ROAD**

Mr. Ribeiro moved to adopt Resolutions #23-101 to #23-103. Ms. Zamarra seconded and the motion was approved by the following roll call vote. Mr. Ambelang, Ms. Greenfield, Ms. McCredie, Mr. McQueen, Mr. Ribeiro, and Ms. Zamarra voted yes.

## COUNCIL COMMITTEE REPORTS

**Mayor's Update,** Mayor Canose said she attended the New Jersey Mayor's Conference in Atlantic City on April 12<sup>th</sup> through April 15<sup>th</sup> and was elected as a board member of that organization. They had panel discussions on energy tax receipts, the future of health benefits, affordable housing, and new stormwater regulations. Governor Murphy was a keynote speaker and talked about liquor law reform. Mayor Canose said she participated in the Somerset County Stigma Free event as one of the speakers to encourage other municipalities to take the stigma free initiative. Mayor Canose said the Housing Committee met and that will be discussed later in the meeting. On Saturday, Mayor Canose attended a hike at our property on 267 Mine Brook Road done by Community & Connection and co-sponsored by the Mayor's Wellness Committee. She thanked the Trails Committee and Public Works Department as our trails are in great shape. Mayor Canose attended the funeral service for Terry Thompson on Saturday who was a very well admired and respected woman. Mayor Canose said we received our plaque for being a New Jersey Healthy Town To Watch and went from bronze to silver. As a result, a banner will be hung with the location to be determined, possibly at the pickleball courts. Mayor Canose said we still have the Foodstock campaign going on. Mayor Canose welcomed new Administrator Nancy Malool who started with the Borough on April 17<sup>th</sup>.

**Administrator's Report,** Ms. Malool said she has been with the Borough for a week and it's been great meeting the employees and professionals. She said she took a tour of the town and is learning about a lot of the projects that are ongoing. She said she met with some of the council members individually and the Mayor and she is very happy to be here in Bernardsville. Ms. Malool said she received an email today from Somerset County indicating that Downtown Bernardsville received a grant of \$16,250 for a historic walking tour.

**Municipal Attorney Report**, there were no comments or questions on Mr. Pidgeon's report.

Mr. McQueen moved to accept the monthly reports as listed on the agenda. Ms. Greenfield seconded and the motion was approved with six yes votes.

## **COUNCIL COMMITTEE REPORTS**

**Public Safety Committee**, Ms. Greenfield said we will be hiring a new female police officer who will be starting in July. She said the committee discussed traffic enforcement efforts regarding April's distracted driving and May's Click-it Or Ticket initiative. Ms. Greenfield said the committee discussed parking issues and conflicting parking signage in the Bernards Avenue area. She said they will be looking at the signage issue and also how the parking ordinance can be revamped to make it clear to residents and more enforceable. Ms. Greenfield said the committee talked about the Mount Airy Road/Prospect Street intersection. She said the Police Department did a two-week study which they sent to the County Engineer for review and to determine if additional signage or other measures would be warranted at that location.

**Finance Committee**, Mr. Ribeiro said at their last meeting the committee talked about the budget presentation that was made at the April 10<sup>th</sup> council meeting. He said they also discussed finance in regards to the recreation plan as requested by Council. He said they discussed the costs of the pavilion that is being planned. Mr. Ribeiro said this topic is being sent back to the Recreation Committee.

**Organization Development and Personnel Committee**, Mayor Canose said the committee has nothing new to report.

**Engineering, Technology, and Public Works Committee**, Ms. Zamarra said the committee is meeting tomorrow night.

## **OTHER COMMITTEE REPORTS**

**Land Use**, Mayor Canose said the committee is meeting on Wednesday night.

**Centennial Committee**, Mayor Canose said the committee is meeting on Wednesday.

**Recreation Committee**, Ms. Greenfield said the committee met on April 11<sup>th</sup>. She said Peters' Tract has been completed, marked, and is open to public. Ms. Greenfield thanked the Public Works Department, John Macdowall, Kerry Haselton, and Aaron Duff for their efforts in getting the trail completed. Ms. Greenfield said the Peters' Tract trails, located at 251 Claremont Road, now have a red in and out trail which is about a half mile, and a blue perimeter loop trail which is close to three quarters of a mile. Ms. Greenfield said as requested by the Council at the April 10<sup>th</sup> meeting, she reviewed the Polo Grounds Pavilion drawings with the Recreation Committee and discussed Phases I and II of the proposed Polo Grounds Improvement projects. She said the committee was asked to provide in writing any questions and recommendations that they had. She said the report was received today and has been distributed to all members of Council for

review. Ms. Greenfield said the Public Works Committee meets tomorrow night and can go through some of the questions and recommendations at that time. She suggested that after incorporating some of the Recreation Committee's recommendations, we have a presentation on a proposal for the public prior to voting.

**Housing/Zoning Committee**, Ms. Greenfield said the committee met on April 21<sup>st</sup> and discussed potential issues that needed to be addressed. She said before the detached accessory dwelling ordinance was ready to be introduced, Mr. Pidgeon found a possible unintended consequence and the committee felt that it needed further review. Ms. Greenfield said the committee discussed additional recommendations to the outdoor dining ordinance which will be sent to the council for review. She said the committee felt that it was important to get the insurance issue taken care of and there is an ordinance on for discussion later in this meeting. She said other tweaks to the ordinance will be done at a later time.

**HPAC**, Ms. Greenfield said the committee has not met.

**Recreation Committee** (continued), Mr. McQueen asked about discussing the Pavilion. Mayor Canose said we just got feedback from the Recreation Committee and really haven't had a time to review it. She said she would also like to allow time to get Ms. Malool caught up on where we are with the project, so we will put off discussion until the next meeting. Ms. Greenfield noted that the Public Works Committee is meeting tomorrow night and may be able to take care of some things. Mr. McQueen said there is a financial issue with the scope and scale. Mr. Ribeiro said the financial issue was resolved when it was laid out. It was decided to add this topic to the May 8<sup>th</sup> council agenda.

**Planning Board**, Mr. McQueen said the Board met and discussed the consistency review of Ordinance #2023-1960, which is the Palmer redevelopment plan.

**Board of Health**, Mr. Ribeiro said the Health Department has done their annual report. He said as a reminder to residents, we are part of Bernards Township Health Department which is the contractual agency of six municipalities as a shared service. He said the report is on the Bernards Township Health Department's website and it shows the structure of the Health Department, accomplishments in 2022, highlights the effort to the Covid pandemic, and their Health Matters newsletter. He said it's a great summary for residents to see what both the department itself is doing and what their tax dollars are going to. Mayor Canose asked Mr. Ribeiro if he could ask Tricia Cowell of the Health Department to attend a Mayor's Wellness Committee meeting.

**Environmental Commission**, Ms. Zamarra said the Commission met on April 12<sup>th</sup>. She said the Earth Day cleanup was last Saturday. She said we did very well in terms of garbage picked up despite the fact that we had our stream cleanup the week before. Ms. Zamarra said this coming Saturday is the E-Waste and clean styrofoam recycling event at Bernards High School. Ms. Zamarra said they also talked about some grant opportunities. She said the Environmental Commission has a survey that they started which begins today and it's to gauge what residents want or would be willing to do in terms of environmental recycling or digital recycling. It also asks people if they are willing to compost. Ms. Zamarra said at Ms. Malool's former position

they did something with collecting styrofoam that we are looking into. Ms. Malool said they had a machine that cost seventy thousand dollars but they make the money back by selling styrofoam to a vendor who makes molding for cruise ships and picture frames. She said the machine will pay for itself, usually over a few years.

## **ITEMS OF BUSINESS**

**Draft Ordinance - Outdoor Dining**, Mr. McQueen suggested the indemnification agreement be something that can be created in a simple form that's understandable by the business owner as to not have them have to hire lawyers to interpret. Ms. Greenfield moved that Ordinance #2023-1965, **REQUIRING OUTDOOR DINING FACILITIES TO FILE A CERTIFICATE OF INSURANCE AND AN INDEMNIFICATION AGREEMENT WITH THE BOROUGH CLERK**, 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, May 8, 2023. Mr. McQueen seconded and the motion was approved with six yes votes.

### **Mayor's Appointment of Chris Otteau to Planning Board, Class IV Member, for an unexpired term to 12/31/2023**

Mayor Canose announced her appointment of Chris Otteau to the Planning Board for an unexpired term to 12/31/2023.

### **Correspondence**

Mayor Canose said we received a letter in support of our Transit Village application from Walter Lane, Director, Office of Planning, Policy and Economic Development for Somerset County.

### **Board of Adjustment 2022 Annual Report**

Mayor Canose said we received the 2022 Annual Report from the Board of Adjustment. Mr. McQueen asked about the number of applications reviewed by the Board of Adjustment in 2022 compared to prior years. While the exact amount of applications were not known at the time, Mayor Canose said it seems like 2022 was standard and about the same number we usually receive. Ms. Zamarra said the report recommended that technologies be obtained and utilized to facilitate Board meetings to become more electronic based and enable hybrid meetings. Mayor Canose said we have that technology in this meeting room that council is using and the Board of Adjustment can use it. She said the Board of Adjustment has not taken action to become hybrid. She said the Planning Board is also meeting remotely. Mr. McQueen said the Planning Board has discussed this topic and wants to remain status quo. Mr. Pidgeon said it's up to each Board to decide to meet in-person, hybrid, or only on Zoom. Mayor Canose said the Board of Adjustment's report also recommended that the Planning Board and Council clarify the language in the Land Use Code, LD 12-23.4 Garages in Residential Zone Districts. Mr. McQueen will follow up with Frank Mottola on this topic.

### **Unfinished Business**

**Appointment of Christine Zamarra as Environmental Commission Liaison**, Ms. Greenfield moved the appointment of Christine Zamarra as Environmental Commission Liaison. Mr. Ribeiro seconded and the motion was approved with six yes votes.

**New Business** - None

**OPEN SESSION**

Mayor Canose opened the meeting to the public.

Chris Herold, said he wanted to revisit the Chris Otteau nomination. He said he knows of the Otteau Group and attended their seminars for years. Mr. Herold said he does not know if Chris Otteau is part of that group but if he is, the public needs to know if Mr. Otteau has any conflict of interest regarding the developer for AR Quimby or the Palmer group because if he does he should not be on the council. Mayor Canose said if somebody is on a Board or Council and has a relationship, they recuse themselves from that matter. Mr. Herold said they recuse themselves from the meetings but they can still consult on the side and get leverage.

Frank DiNapoli, Maple Village Court, commented on Special Improvements Districts (SID). He said after sitting through two meetings on that topic, he feels the timing is all wrong to get that designation. He said we need to fill the vacant buildings and attract new businesses first. Mr. DiNapoli said a new tax could deter new businesses from coming to town and they'll find a place where they don't have to pay extra tax. He said it might be a good idea down the road when we build some of these buildings, but right now it could be a deterrent.

Kerry Haselton, Mine Brook Road, suggested we name the parks that we put the trails on. She said they are now referred to by their address, 251 Claremont Road and 267 Mine Brook Road, which can be confusing. She suggested 251 Claremont Road be named Peters' Tract and 267 Mine Brook Road be named Kirkpatrick Park.

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 Attorney/Client Privilege and Contract Negotiations 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 9:05pm.

