

BOROUGH OF BERNARDSVILLE
Mayor & Borough Council Meeting Minutes
October 15, 2019

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

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

Downtown Bernardsville Upcoming Events

Present were Olivia Manning of Downtown Bernardsville to discuss upcoming events in late November and early December. She said she would like to set up a tent near the Millicent Fenwick statue near the train station on November 30th for Small Business Saturday and on December 7th for the Holiday Cookie Crawl. Ms. Manning said she is working with Chief Valentine for the possibility of a holiday parade on December 7th. A Trunk Or Treat event will be held in the train station parking lot next week. A community meeting will be held on October 16th at Bernards High School and there will be discussion on the mural project. The Borough Clerk was asked to find out from the Fire Prevention Official if a heater can be used in the tent. Ms. Manning will supply a certificate of insurance naming the borough as an additional insured and a hold harmless agreement.

2020 Census

Tahirih Gomez-Smith, Partnership Specialist for the New York Regional Census Center spoke about the upcoming 2020 Census. Ms. Gomez-Smith said census numbers are very important as they determine many things including seats in the House Of Representatives, redistricting in 2021, billions of dollars for school lunches, and other federal funded items. Ms. Gomez-Smith said there are a number of jobs available with the Census Bureau for individuals 18 years and older. She urged promotion of census responses and made brochures available to the public and council.

OPEN SESSION

Bonnie Sellers, Post Kennel Road and member of the Downtown Revitalization Committee, said the committee supports Resolution #19-203 and is in attendance in case questions arise.

William Nash, Lindabury Avenue, read a statement regarding cannabis and alcohol. He said there are at least three establishments in town that sell liquor for recreational use, and while there is no legitimate medicinal use for alcohol, he finds it hypocritical that council seeks to ban the sale of cannabis prescribed by a license physician and not banning the sale of recreational alcohol. Mr. Nash read statistics regarding cannabis and alcohol, and said alcohol is much worse than cannabis by every measure that matters. He said either ban the sale of both alcohol and cannabis or ban none. He added that we do not need a nanny state to protect us or our children from alcohol or cannabis and we need to teach responsible use and help those who misuse drugs to find substance abuse treatment.

Tom Wood, Grove Street, asked about any road projects in the works. Mr. O'Dea said future road plans are based on budget availability and the plan is prioritized by the condition of the road and traffic on the road. Mr. Wood asked about the status of low income housing. Mayor Canose will follow up. Mr. Wood asked why the fishing derby is not being held this year as it has been a fun and successful event in the past. It was noted the Recreation Department indicated there are now plantings around the pond and space is limited. Mr. Wood asked for reconsideration of the fishing derby. Mayor Canose will follow up.

Julie Blackstock, Wesley Avenue, spoke in support of speed humps on Wesley Avenue and also for a digital speed sign. She said noise and property value are not an issue for her and her concern is for the safety of the kids.

Karen Ferguson, Wesley Avenue, spoke about marijuana and said parents are concerned about a dispensary opening in the downtown area. She asked council to consider issues important to parents.

Kathleen Williams, Round Top Road, spoke about the recently adopted deer management plan. She said she was told by the Municipal Attorney at the August 12th meeting that the 4.4 acre parcel of Borough Springs was removed from the plan and she also had an email from the Borough Clerk stating that the August 12th minutes reflected that. Mr. Suriano said while it was noted on August 12th that the 4.4 parcel of Borough Springs was removed, no official motion was made. Ms. Zamarra suggested adding newly acquired borough property at 271 Mine Brook Road and ten acres of a property on Claremont Road and removing the 4.4 acre parcel of Borough Springs. Mr. Hammond suggested focusing on the 4.4 acre parcel itself and making any additions at a later time. Johanna Wissinger, member of the Green Team, said Warren Blue Ridge Sportsman Club was chosen by the borough and it is safer using them to handle deer management. Ms. Greenfield moved to remove the 4.4 acre parcel of Borough Springs from the 2019-2020 deer management plan. Mr. Hammond seconded. A roll call vote followed. Ms. Greenfield, Mr. Hammond, and Ms. Zamarra voted yes. Mr. O'Dea abstained.

ORDINANCES (Public Hearing)

Mayor Canose continued the public hearing on Ordinance #2018-1807, **AN ORDINANCE AUTHORIZING INSTALLATION OF A SPEED HUMP ON WESLEY AVENUE AND SUPPLEMENTING AND AMENDING CHAPTER VII OF THE BOROUGH CODE ENTITLED “TRAFFIC”** from September 23, 2019. Hearing no comments from the public, Mayor Canose closed the public hearing. Mr. Hammond suggested analyzing speed data and continuing the public hearing to the November 12th meeting. Mr. O’Dea asked if we had more electronic speed signs and about the cost. Mr. Maresca said they are about \$2,500 each. Mr. O’Dea thought they were less than that and asked to find out the actual cost, inventory the existing cost and then discuss at the next Public Works Committee meeting. Mr. Hammond moved to continue the public hearing to November 12, 2019 at 7:00pm. Ms. Greenfield seconded the motion. Chief Valentine said the Police Department collects data for enforcement, but a traffic engineering would do a speed study and not the Police Department. He said if we install signs, cars cannot be parked near the signs as that could impact the data. The motion made earlier to continue the public hearing to November 12th was voted on and approved with four yes votes.

Mr. Pidgeon read proposed amendments to be made to Ordinance #2019-1810, **AN ORDINANCE PROHIBITING MARIJUANA FACILITIES AND SUPPLEMENTING AND AMENDING SECTION 12 OF THE BOROUGH LAND USE ORDINANCE ENTITLED “ZONING”**, as follows: “Dispensaries” is added to the title; Clarifying the exemption language to say that the provisions of this section shall not apply to licensed physicians writing prescriptions for medical marijuana and pharmacists filling prescriptions for medical marijuana. Mr. O’Dea said he would like to add an amendment to state that any CBD product has to have a certificate of analysis. Mr. Hammond said he would like to add an amendment under CBD to include representation of marijuana on signage. Mayor Canose continued the public hearing on Ordinance #2018-1810, from September 23, 2019. There were no comments or questions from the public and Mayor Canose closed the public hearing. Mr. O’Dea moved to direct Mr. Pidgeon to add the language as noted above and carry the public hearing to October 28, 2019 at 7:00pm, where these amendments will be considered. It was noted that the amendments will be considered on October 28th and then a public hearing and possible adoption as amended would take place in November. Ms. Greenfield seconded and the motion was approved with three yes votes. Ms. Zamarra voted no.

Mayor Canose opened the public hearing on Ordinance #2018-1819, **PROHIBITING VAPE SHOPS AND SUPPLEMENTING AND AMENDING SECTION 12 OF THE BOROUGH LAND USE ORDINANCE ENTITLED “ZONING”**. Hearing no questions or comments from the public, Mayor Canose closed the public hearing. Mr. Hammond moved to pass this ordinance on final reading and adopt as published. Mr. O’Dea seconded and a call of the roll followed. Council Members Greenfield, Hammond, O’Dea, and Zamarra voted yes.

Mayor Canose opened the public hearing on Ordinance #2019-1820, **RESTRICTING RETAIL ELECTRONIC SMOKING DEVICE ESTABLISHMENTS AND SUPPLEMENTING AND AMENDING CHAPTER III OF THE BOROUGH CODE ENTITLED “POLICE**

REGULATIONS”. Kathleen Williams, Round Top Road, said she supports banning vape shops and asked if this bans vaping in all public places. Mr. Pidgeon said it prohibits primary use. Ms. Williams asked about vaping on borough property and it was noted that is a state law. Ms. Williams urged council to prohibit in public places. Mr. Pidgeon said that would have to be done separately and he can provide samples at a future meeting. Hearing no further 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. Greenfield seconded and a call of the roll followed. Council Members Greenfield, Hammond, O’Dea, and Zamarra voted yes.

ORDINANCES (Introduction)

Chief Valentine said there is a site obstruction at the intersection of Bernards and Garibaldi. He said he visited the site with a traffic engineer and this ordinance is supported by the walkability study. Ms. Zamarra asked if we could add crosswalks. Chief Valentine said that would be a separate project. Mr. Hammond moved that 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”**, 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., October 28, 2019. Ms. Greenfield seconded the motion, which was approved with four yes votes. The Public Works Committee and Public Safety Committee will look at crosswalks.

Mr. Hammond said the Shade Tree Committee recommended changes to the shade tree ordinance. Mr. Hammond moved that Ordinance #2019-1822, **CONCERNING BOROUGH SHADE TREE ORDINANCE AND SUPPLEMENTING AND AMENDING CHAPTER XIII OF THE BOROUGH CODE ENTITLED “TREE PROTECTION”**, 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., October 28, 2019. Ms. Zamarra seconded the motion and asked if we could change Section 13-14.1c that states “the contribution in lieu of planting trees shall be made within one calendar year from issuance of the related permit” and make the length of time 60 days instead of one year. Tom Wood, Grove Street and Shade Tree Committee member, suggested looking at the scope of the project and the reason why the tree is being taken down when deciding on the length of time. Ms. Greenfield suggested one year to plant or pay. Jeff Horowitz, Planning Board member, suggested having the Planning Board decide on major subdivisions. The ordinance will be changed to give one calendar year from issuance of the related permit to plant the required replacement trees or make a contribution to the Tree Trust Fund for tree permits issued not involving a development application and for those permits issued in connection with applications to the Planning Board or Board of Adjustment, the time period to plant replacement trees or make contributions to the Tree Trust Fund will be set by the Board. The motion from earlier in this section was voted on and approved with four yes votes.

RESOLUTIONS

- #19-194 AUTHORIZING PAYMENT OF BILLS**
- #19-195 RESOLUTION TO CANCEL CERTAIN UNEXPENDED
BALANCES OF CAPITAL ORDINANCES IN THE GENERAL
CAPITAL FUND**
- #19-196 AUTHORIZATION OF TAX REFUND**
- #19-197 AWARDING A CONTRACT FOR REPLACEMENT OF LIBRARY
FLAT ROOF AND HVAC PACKAGE UNITS**
- #19-198 ESTABLISHING PRELIMINARY PLANNING EXPENSES FOR
QUIMBY LANE PROJECT – DOWNTOWN REVITALIZATION**
- #19-199 AWARDING CONTRACT FOR GARBAGE CONTAINER
REMOVAL AND DISPOSAL**
- #19-200 ESTABLISHING FORMS FOR REQUESTING FUNDS AND
APPLYING FOR GRANT FUNDS**
- #19-201 AUTHORIZING THE CLEAN UP OF 131 MOUNT HARMONY
ROAD AND PLACING A LIEN ON THE PROPERTY TO COVER
THE COST OF THE CLEAN UP**
- #19-202 RAISING SLEO III PAY RATE AND AMENDING CONTRACT
WITH SOMERSET HILLS BOARD OF EDUCATION**
- #19-203 AUTHORIZING AND DIRECTING THE BOROUGH
PLANNING BOARD TO CONDUCT A PRELIMINARY
INVESTIGATION TO DETERMINE WHETHER CERTAIN
PROPERTY IDENTIFIED AS BLOCK 70, LOTS 1, 2, 3, 4, 5,
6, 6.01, 6.02, 6.03, 6.04, 6.05, 6.06, 6.07 AND 6.08; BLOCK 71,
LOTS 4, 5, 5.01, 6, 7, 8, 9, 10, 11, 12, AND 13; BLOCK 98,
LOT 1; BLOCK 124, LOT 1 AND BLOCK 144, LOT 1 AS
SHOWN ON THE OFFICIAL TAX MAP OF THE
BOROUGH OF BERNARDSVILLE WITHIN THE
BOROUGH CONSTITUTES A NON-CONDEMNATION
AREA IN NEED OF REDEVELOPMENT PURSUANT TO
THE LOCAL REDEVELOPMENT AND HOUSING LAW,
*N.J.S.A. 40A:12A-1 ET SEQ.***

Regarding Resolution #19-202, Mr. O'Dea asked if the SLEO III officers work exclusively in the school. Chief Valentine said they work at Bernards High School and at the Middle School and Elementary School campus.

Regarding Resolution #19-203, Joseph DeMarco, attorney handling this matter for the borough, said this resolution lists the train station lot, Mount Airy Road lot, and Quimby Lane area.

Mr. O'Dea moved to adopt Resolutions #19-194 to #19-203. Mr. Hammond seconded and a roll call vote followed. Ms. Greenfield, Mr. Hammond, Mr. O'Dea, and Ms. Zamarra voted yes.

Change of Zoning Line Request for Potential Subdivision of 42 Maple Street

Heather and Mike Eckel of 42 Maple Street requested a change of the zoning line at Maple Street which would alleviate the need for multiple variances involved in a potential subdivision. They are currently in the R4 zone and the change would put them in the R5 zone. Mr. Pidgeon said the purpose of the Eckels coming to council with this topic is to see if council is in favor of the concept of changing the zoning line on Maple Street, and if so, this matter should be referred to the Planning Board for further review. Mr. O'Dea moved to refer this topic to the Planning Board and inform the Planning Board that Council is in favor of the zoning change concept. Mr. Hammond seconded and the motion was approved with four yes votes.

Mountain Biking at Polo Grounds

Mr. Hammond said his one concern is the grass being ruined if they are going to use the bikes on a grass area. Mr. Suriano was asked to check with Cheryl Ferrante to find out if the Recreation Committee had similar concerns about potential damage to grass and if so, find out if they suggested an alternative location. Council consent was given for mountain biking to take place at the Polo Grounds as suggested by the Recreation Committee. The usual certificate of insurance naming the borough as an additional insured and signed hold harmless agreement is required.

Draft Resolution Supporting Referendum in November for Veterans/Widows of Veterans Who Reside in Continuing Care Retirement Communities to be Eligible for Property Tax Deduction

Discussion took place on whether council has in the past, taken a position on state referendums. It was determined not to set a precedent. Tom Wood, Grove Street, and a member of the audience stated that they are not in favor of this referendum. No action was taken by council.

Housing Committee Appointment – Poreda (Mayor's appointment w/council consent)

Mayor Canose said she is making the appointment of Michael Poreda to the Housing Advisory Committee and asked for council consent. Ms. Greenfield moved council consent to the Mayor's

appointment. Mr. O'Dea seconded and the motion was approved with four yes votes. Mr. Poreda was in attendance and thanked council for the appointment.

Deer Management, 4.4 acre parcel of Borough Springs

This item was discussed earlier in the meeting in open session.

Holly Days

The Chamber of Commerce's holiday events (Holly Days) were discussed including the Christmas tree lighting, hanging of wreaths, and Santa arriving on a fire truck. With the Chamber of Commerce and Downtown Bernardsville planning holiday events around the same time, Chief Valentine suggested a committee with a representative from the Chamber, Downtown Bernardsville, Police Department, and Governing Body to work out scheduling. Council consent was given for the Chamber's events. Mr. Hammond and Ms. Greenfield volunteered to be on the committee.

Mayor's Update

Mayor Canose said Tons of Toys had their grand opening on September 26th. Mayor Canose said she attended the Library Foundation fundraiser and it was well received. The Fire Department held an open house at the firehouse on October 13th. The pocket park at the Library opened today. There will be a community meeting at Bernards High School tomorrow night. On November 16th, Bernards Center which is located near Kings', will have a grand opening. Kesler is having their one year celebration on November 18th and council is invited. Mayor Canose said she sent an ordinance she received from the NJDEP to Public Works and it is about bringing soil into town. An RFP for a Recreation Plan was sent out by the Mayor to seven companies and a response is due to the Borough Clerk by October 30th.

Correspondence

There was none.

Unfinished Business

Mr. Hammond said applications for veterans banners were closed out today. There will be eleven banners hung with veterans from World War I, World War II, Korean War, and Vietnam War.

New Business

Mr. Hammond said he has some information which will help make the borough website more user friendly. He suggested splitting the technology portion from the Public Works Committee

and creating a separate committee. Chris D'Amato, IT Specialist, is good with this idea. Mr. Pidgeon will prepare an ordinance to create a committee to handle IT and communications. It was noted this would be a citizen's committee with council representation and the Public Works Committee would be left as is. Mr. O'Dea said the website could include information on starting a new business. Mayor Canose said web designer Alphadog will have a subscription function in the future for residents to sign up for alerts. Mr. Pidgeon will have an ordinance creating an IT committee for next meeting. Kathleen Williams, Round Top Road, said she would be interested in volunteering to be on the committee. Kerry Haselton, Mine Brook Road, asked if this committee would be setup like the Shade Tree Committee. Mayor Canose said it will be an advisory committee that will make recommendations. Ms. Greenfield moved the concept of having an IT committee. Mr. Hammond seconded and the motion was approved with four yes votes.

CLOSED SESSION

It was moved to adjourn to an executive session to consider Personnel Matters, Contract Negotiations, and 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 four yes votes.

ADJOURNMENT

The meeting was adjourned at 10:30 p.m.
