

**BOROUGH OF BERNARDSVILLE**  
**Mayor & Borough Council Meeting Minutes**  
**May 11, 2020**

Mayor Canose called this meeting to order at 7:00 p.m. 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, 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 January 3, 2020.

**PLEDGE OF ALLEGIANCE**

**PRESENTATIONS**

Eagle Scout Project – Borough Springs Trail, Eagle Scout Kyle Morris discussed his project of providing a walking trail for about ½ mile at Borough Springs. This trail will benefit the residents and visitors of Bernardsville by providing a place to explore and exercise while enjoying the local wildlife. The project will be in three phases. Phase I will be on the trail and will include cutting the trail, cleaning the area of garbage, marking the trail, planting shrubs to mark trail and prepping for the raised walkway and switch-backs. Phase II will be at Kyle’s home to cut the wood for the steps and raised walkway. Phase III will be on the trail to install the steps (switch-backs) and raised walkway. The goal is to initiate the project this spring. Council consent was given for this project.

271 Mine Brook Subdivision, Borough Planner John Szabo was present and talked about his review of where we could subdivide the property and how best we could use the property. He talked about a conceptual plan considering zoning and the borough’s desire to maintain a large portion of open space, a majority property owner interested in acquiring a two or three acre portion, and possibly subdividing a leg of the property to someone for a future subdivision residential development. Mr. Szabo said he took into account zoning and laid out the lots so everything conforms. Mayor Canose said this is a property that Brandstetter Carroll will review its potential use and finalize that. Mr. Pidgeon said with respect to the part the mansion is on, we would have to go through a public bidding process in order to sell that. He said with respect to the smaller parcel, if we decided to sell that off because it is undersized and cannot be built on, the public bidding process can be limited to adjoining property owners. Mr. O’Dea asked if we subdivide both sides and do this as one action are we obligated to sell the 2.64 parcel or can we decide at a later time to sell it or not. Mr. Pidgeon said we are not obligated to sell. Mr. Szabo said we have to be careful with the timing and not to accept any Green Acres monies until we have decided what to do with the two parcels. He said if we take the money now it will

automatically become part of our ROSI and we will not be able to do anything with it. Mr. Hammond asked if we sold the eight acre piece, could the new owner subdivide that. Mr. Szabo said yes, but they would have to conform to the R-1A, three acre zone requirements. Mr. O'Dea asked if we could put any covenants in the sale to prevent that. Mr. Pidgeon said we cannot put stricter requirement in the deed of conveyance than the zoning standards. He said if we sell it we cannot put covenants that the owner cannot subdivide it.

### **STATEMENT REGARDING OLD QUARRY ROAD LITIGATION**

Mayor Canose read the following statement:

Good evening. Tonight, we have an update for the public as well as a decision to make regarding pending litigation with respect to the proposed Materials Recovery Facility (MRF) on Old Quarry Road. The original application to amend the Industrial Zone Ordinance was approved on August 10, 2015 by the members of Borough Council who were in office at that time. The Ordinance was prepared by the Borough planner at the direction of the Planning Board and forwarded to the Council with the Board's recommendation to approve.

In August of 2018, the Council received a review copy of the NJDEP application submitted by Old Quarry Road Associates for the Materials Recovery Facility. In August of 2018, the Council in office at that time reviewed the information and voted to repeal the 2015 Ordinance allowing a Materials Recovery Facility as an approved use.

Old Quarry Road Associates then filed a lawsuit against the Borough. The Council then retained outside attorneys with an expertise in both BPU permitting and land use issues to represent the Borough in the litigation. As we began the litigation process with our attorneys, we were confronted with a choice to pursue this in court, or to negotiate towards a settlement. After a detailed review of the history and facts in the case, our attorneys advised us that a negotiated settlement could be the most successful path. Their legal analysis was based on decisions made in 2015 by the Borough Council and the resulting actions taken by the Old Quarry Road Associates in the time between 2015 and 2018. Based on our attorneys' assessment and input from the case judge, we were advised that there could be a significant risk in pursuing the litigation path.

We would like to note that the circumstances leading to the original approval of the site pre-date this current Council, and we are trying to make the best of the difficult situation we now face. Based on the totality of the case facts and legal advice, the Council agreed to develop terms for a negotiated settlement. During this process, the Council had to consider the litigation path which, should we be unsuccessful, we would not only incur additional legal fees, but we would lose any control over the operation of the facility. By choosing to negotiate, our goal was to gain some net benefit to the Borough. In that negotiation, which lasted several months, we were able to achieve some concessions. These are highlighted most importantly by:

- A reduction and guarantee that truck traffic will only increase by 24 trips per day vs. the originally proposed 64 trips
- A reduction in intake hours from 6 am -6 pm to 6 am -4 pm, Monday through Friday and from 6 am to 2 pm to 6 am to 12 pm on Saturday
- The facility will not be open on Sundays
- The Borough will receive \$1.50 per ton of material vs. the \$0.50 originally proposed (est. \$45,000 revenue per year vs. \$15,000)
- The Facility will be open to Bernardsville residents, free of charge, at least once per year
- The Facility will not have a tub grinder
- Materials to be accepted and processed will only be those set forth in NJ DEP 13 and 13C – no automobiles, trucks, trailers, large vehicle parts, tires or kitchen waste
- Speed limits near the Rose Bowl field will be 5 mph
- Landscaping will be provided at the entrance
- A bridge will be constructed over the creek adjacent to the Rose Bowl for pedestrian safety.

Tonight is the first discussion of this matter with the public. In order to maximize our ability to negotiate the best deal for Bernardsville and protect the confidentiality required by litigation, our lawyers advised us that this matter should not be discussed in public until the appropriate time, which is this evening. Again, we think it is important to state that this current Council did not feel that this Materials Recovery Facility was good for our town, especially as it was proposed. However, we believe that the risk of litigation, coupled with an inability to get any concessions if we were to lose in court, could be worse. So tonight, we are considering what is in the best interest of the Borough.

### **OPEN SESSION**

Mayor Canose opened the meeting to the public session.

Jessica Walker, J. Walker Salon and Wellness Spa, urged the council to reach out to the Governor to come up with a plan to allow our small businesses, specifically the salon industry, open up in some capacity. She said there is a lot of incongruences when it comes to what is essential versus non-essential and the amount of people for gatherings. She said they already follow guidelines from the Department of Consumer Affairs. She said they could take clients temperature; have a waiver to send to clients before their arrival; only take regular clients; cashless payments only. She said it is a sanitary act to cut hair and can only be done by professionals. She suggested the Health Department and salon owners put together a plan so they can take care of their clients. Mr. McQueen asked Ms. Walker and any other Bernardsville business owner to send any plans they have to council. He said it is unclear as to what role council may or may not have in opening and setting of guidance from the state. Mayor Canose thanked Ms. Walker for her article in the Bernardsville News about this topic.

Michael Marcus, attorney for the Borough of Far Hills, said he is familiar with the Old Quarry Road litigation. He said on behalf of the Borough of Far Hills, they object to truck traffic from the quarry traveling south on Route 202. He said they have advised the county, the Borough of Bernardsville, and the NJDEP of their position. Mr. Marcus said the Borough of Far Hills is requesting all truck traffic and the preferred truck route should proceed north through Bernardsville rather than south on Route 202 through Far Hills. He requested that this be made part of Bernardsville's potential settlement of the litigation. Mr. Pidgeon said we have been aware of Far Hills' position on this matter since day one.

Melissa Provost, Garibaldi Street, said people are going outside during this pandemic walking their dog, walking with strollers, biking, and other passive recreation. She said it is dangerous due to the amount of car traffic that goes through. She proposed that a street or two in their neighborhood is closed for walking, biking, or running without fear of being hit by a car. Mayor Canose said she had reached out to Chief Valentine and he was concerned it might increase people congregating. Mr. McQueen suggested a global discussion about how to make our town more amenable to this current condition. Ms. Zamarra said she reached out to Ridewise for ideas to accommodate these types of requests and is waiting to hear back. Mr. Hammond said we should have a consistent plan in case another neighborhood wants to do a similar thing. Mr. Donahue said people walk all the time and follow the rules very well and closing streets may cause traffic issues on other streets. Mr. McQueen asked Mr. Hammond to bring this before the Public Safety Committee.

Lynn Vinegra, Stirling Road, said she does not support the dump (Old Quarry Road). She said she noticed on the bubble that this was on the agenda and not a lot of people she spoke to knew that. She said the community was not supportive of allowing the dump in past council meetings and that people should have been made aware that this was happening tonight.

Lauren McHale, Ambar Place, said she is a mother of a senior at Bernards High School and she hopes there is a way to honor the 2020 high school senior graduates. She suggested signage or banners in storefronts or at Borough Hall and said she would work with council on this. Mayor Canose said we will look into some way to acknowledge our high school seniors. Mr. O'Dea said he would support anything we can do to help. Ms. McCredie said she would be on a committee to help out. Mayor Canose said we could work with the HSA to see what we could do. She said Chief Valentine is also discussing this with School Superintendent Gretchen Dempsey. Chief Valentine said as of right now they are planning a virtual graduation where they can get photo clips and videos of individual students in their robes and gowns. He said they have to work within the parameters of the State and the Department of Education. Ms. McCredie suggested some discussion on conference calls with the Governor's Office or county about if our town can be handled differently since we have 180 graduates versus a larger town. Chief Valentine said there are calls every morning with the State Office of Emergency Management and there are over 400 Police Departments on the call, many of which are small towns, and they are going through the exact same thing we are and are all being subjected to the same rules and

provisions that are in place to keep everyone as safe as possible. He said we are no exception to the rule.

Howard Lemberg, Mine Mount Road, asked to what extent is the proposed agreement with Old Quarry Road Associates the end of the story or the start of which would lead to appeals to state agencies/courts and attempts to supersede this agreement by going to the NJDEP/ other state agencies. He said if this is the case, we would be agreeing to something tonight which would then be overridden by Old Quarry Road Associates or its successors. Mr. Pidgeon said this settlement would only involve the zoning issues and Old Quarry Road Associates would still have to get NJDEP permits and things of that nature. Mr. Lemberg asked if those permits allow Old Quarry Road Associates to override the zoning content of the proposed agreement. Mr. Pidgeon said it would not and that their application to the state all have the same limits as the zoning ordinance. Mr. Hammond said if Old Quarry Road Associates sells to another owner in the future, would they be able to override, change, amend, or do anything different. Mr. Pidgeon said no, they would still be subject to the Bernardsville zoning ordinances.

Susan Horowitz, Laurel Lane, said she is concerned about one of the bullet points allowing traffic at 6:00am for six days a week. She said that could be very noisy early in the morning to wake up to the beeping of trucks backing up.

Peter Birnbaum, Round Top Road, said he is concerned with the proposed scope of the settlement. He said it is different way beyond what they presented at the meeting he was at when he was on council. He said he is aware of other communities having problems with quarries and would never have considered that for Bernardsville as it is out of character and unnecessary. He said from his notes and what he recalls, they said it would be a very limited operation and they only wanted to do it because there was a shortage of services for building projects. He said he recalls the hours being six to eight and we asked if they would limit to that and they said yes. He said the exact hours he'd have to check but that's what it was. He said they would not work Sundays and be limited on Saturdays from about 9:00am to 2:00pm. He said while he was on council, he thought that it would not encroach on the peace and quiet of the community. He said regarding trucks, it was one or two per day and we are talking 12 to 15 per week. He said in terms of materials, no dust generated type things, no hazardous materials, no asbestos, no liquids, and no chemicals. He said there would not be any noise and it would be truly a scavenger type of operation. He said they presented something very low impact and very limited scope. He said he would testify if this went to court and this is a disgraceful bridge of our trust and good faith.

Thomas Pagel, Tower Mountain Drive, said he appreciates the transparency the council is acting but questions if we are in a position to have a discussion about the quarry settlement with all the distractions we have in our lives. He said it is a polarizing topic and is probably worth more discussion for everyone to feel comfortable with it. He asked if we can discuss this topic as a community.

Kerry Haselton, Mine Brook Road, asked who is going to monitor the compliance of the parameters we put in the agreement. She asked if we have the manpower and ability to see that the applicant stays within the limits. She said she feels we do not have the time to do so and it is going to snowball.

Mayor Canose asked Mr. Pidgeon if the state does inspections. Mr. Pidgeon said they inspect once a month and under the proposed settlement the borough has the right to inspect at any time. Mr. O'Dea said the language is that the state expects up to a frequency of once a month but it is not guaranteed that it would happen every month. Mayor Canose asked if we can go in at any time and Mr. Pidgeon answered yes. Mr. Pidgeon said whoever council asks would be the one to do it and the engineer would be the most qualified. Ms. Haselton said we are not going to be able to have anyone stand with a clicker and count. Mr. McQueen said we have discussed a couple of different mechanisms and we know enforcement will be important if we vote to do this.

Kevin Canberg, Brookside Avenue, said we are a small town and questioned whether we have the resources to monitor the guarantees they have given us. He said if there is any room to negotiate, he and his wife are less concerned about the financial benefit of the town than he is about quality of life issues. He said we have to have a plan in place so if the group comes in, they maintain compliance. Mr. Donahue asked if they are found not in compliance, what the sanction would be for them. Mr. Pidgeon said we would have to go back to the court and file a petition to enforce the settlement agreement. Mr. Hammond asked if there is a certain time frame that if they fail to live up to the agreement, the settlement is void. Mr. Pidgeon said yes, we would have to go back to court to accomplish that. Mr. Canberg said if a person lives in the vicinity of the quarry and they are operating at 5:00am, who would they call. It was noted that Zoning Officer Geoff Price would get those calls.

Peter Birnbaum, Round Top Road, said there should be an automatic fine enforceable by the borough.

John Oliveira, Chilton Street, said he knows there is going to be noise and he realizes the council shares those same concerns. He asked if the permit we are giving is for all eternity or is there some means for an expiring permit. He asked if we are to litigate this what is our loss, would it be their planning, architects' fees, or engineering fees. He said knowing more about our liability would be helpful.

Kate Mortenson, Overleigh Road, asked about the status of the NJDEP approval. She said she knows a lot of people in town wrote to them. Mr. Pidgeon said as far as he knows, the permit is still pending NJDEP approval and that is a totally independent issue from this zoning approval. He said the state can deny but in speaking with outside counsel, the possibility of that happening is remote. Mr. Pidgeon said zoning approvals run with the land, so they go forever but the property owner cannot expand or intensify the use beyond that is permitted in the zoning ordinance. He said permits issued by the state can have terms for a specific number of years.

Jeff Horowitz, Laurel Lane, said that this council found itself in a difficult position with this waste facility and moved fairly aggressively to limit the operation. He said there were limitations on what they could do and some legal problems. He said he is concerned about enforcement. He asked if there was any consideration given in the settlement agreement to require a monetary penalty for violations or the property owner pay legal costs and fees incurred by the town in enforcing the order if they lose the case. He said there has to be something more than just saying stop if there is a violation.

Mr. O'Dea asked if there was litigation brought for non-compliance and the applicant was found to be non-compliant, they are liable for future legal fees if they lose. Mr. Pidgeon said they may enforce the settlement and pointed out that like any zoning violation, it can be summoned to municipal court and there could be a fine of \$1,500 per day. He said one thing the settlement does is give us a second option to enforce the settlement agreement in Superior Court. Mr. Horowitz said this came up very quickly and suggested giving the community another chance to comment and it should be explained what the town's remedies are if there are violations.

Chief Valentine said he received an email shortly before the meeting from resident/contractor Patrick Reilly, who would like to hang a banner (location to be determined) thanking essential workers for their services to the community. Mr. Hammond said he likes the idea and has no objections. Chief Valentine proposed that with council consent, he would work with Mr. Reilly to find a suitable location that would not obstruct traffic and be a distraction. He said council consent would be needed if this banner would be placed on borough property. Council consent was given for Chief Valentine to contact Mr. Reilly and find a place for the banner.

Eugene Sharp, Shadowbrook Court, asked if we have to make a decision tonight, and if so, why. He also asked what the risk is if we decided not to settle right now. Mr. McQueen said the risk, as we have been advised by counsel, is that if we go to court, our chances of succeeding are excessively low and if we lose, we do not have the ability to put the provisions in that we have right now. Mr. Pidgeon agreed and said with respect to the timing, negotiations have been going on for almost a year and the case is pending so if there is not a settlement, he suspects it would be set for a quick trial so we really do not have time.

Kate Mortenson, Overleigh Road, asked if the changes to their application were read. Mr. Pidgeon said special counsel was reviewing this matter and the deficiencies were more technical than substantive and the borough sent a letter of opposition to the NJDEP. Mayor Canose said that residents can write letters to the NJDEP. Mr. Pidgeon said the DeCotiis law firm is handling this matter. He said the DEP would not override the borough's zoning ordinance.

John Gaut, Prospect Street, asked if there are any provisions in the town's current road laws or anything that would provide where the truck traffic going to the quarry would have to go. He said this is response to Far Hills' request to send truck traffic to a certain route. Mr. Pidgeon said we do not have control as long as they meet the weight limit restrictions. Mayor Canose said it would depend where they are going when they leave the facility. Chief Valentine said we have

ordinances for weight restrictions on borough roads. Ms. McCredie asked if the noise ordinance would apply to the trucks. Chief Valentine said traffic may not constitute noise.

Dennis McConnell, Old Fort Road, asked what the size of the trucks bringing materials into the quarry, and is it tractor trailer size. Mr. Pidgeon said it could be tractor trailer size. Mr. McConnell asked if we gave any consideration of getting the NJDOT involved as this could be a traffic nightmare. Chief Valentine said right turns onto Mount Airy Road are prohibited and there is a truck route. Mr. McConnell suggested getting the NJDOT involved to determine if this facility would cause too much traffic. Mr. Hammond said the lawsuit is not about safety and NJDOT, it is all about zoning. Mr. McQueen said enforcement of this is very important to him and if there are other avenues for us to have a more favorable condition would be very acceptable to him. Mayor Canose said once we get over the zoning issue, we could involve the NJDOT because we do not want tractor trailers making those turns.

Kerry Haselton, Mine Brook Road, said when we had an asphalt and quarrying facility, there was a way they were trying to equally distribute the load across the neighborhood. Mr. McQueen said limiting the number of trucks was an active portion of discussion.

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

### **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 five yes votes. Mr. O'Dea voted no.

### **REOPEN**

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

### **OLD QUARRY ROAD SETTLEMENT AGREEMENT**

Mayor Canose said each Council Member is going to make a statement. She said she has heard a lot of concerns about enforcement and we will create a plan and strategy to make sure compliance is followed all the time. She said we may form a committee or task force to do that.

Mr. McQueen said we are faced with choosing the lesser of two bad choices. Our attorneys have said our ability to win if we went to litigation would be low to zero. He said as a council we have continually pushed back to make sure we had concessions and to make sure that what we are agreeing to tonight has additional limitations that did not exist when this was passed years ago. He said the reason to not delay is that we are out of time and delaying beyond this point



could put us in a really bad situation. He said choice one is go to court and we would go with a very low chance of winning. We have no concessions and revert back to a bad decision made years ago. He said councils that have worked on this have done good work seeing that concessions were made for the benefit of our town. He said he would vote yes tonight and now wants to shift from a bad situation to an environment of enforcement.

Mr. Donahue said the sediments heard tonight are frustration as we are dealing with a tough situation. He said we heard the public perception that this came out of nowhere but council spent many meetings up to or past midnight discussing this topic trying to get the best deal we can. He said the two alternatives are litigation and settlement, and with fiduciary obligations, making the best for the borough as we can, he has to go with the settlement. He said all levels of enforcement will be explored and used to the maximum potential.

Ms. Zamarra said as hard as this is to accept, it is a timeline that from a legal standpoint we all tried to determine if it's even possible that we could back out. She said it started out in 2015 as our then council has said it was presented in a different way than it was presented to the 2018 council. In June of 2015 the Planning Board reviewed the proposal and accepted it and made changes to the zoning in order to accommodate this. Then the county freeholders said it was ok to move forward in 2017. She said at this point we do not have a case and if we go to court, the risk is too significant for us to bear, so she feels settling is the only option.

Mr. Hammond said he appreciates the attendance and all the input we have received at tonight's meeting. He said the decision originally hatched in 2015 and was reasserted in 2017, so the current council is left with a situation that is untenable and not of its own making. He said at the end of 2018 we tried to undo history when the ordinance was originally rescinded and he supported that even though he was not on council. He said it is apparent that we would not prevail so we have to be mindful that we do not make a bad situation worse. He said we have been able to extract a large number of concessions that are beneficial to the borough. He said while he may vote for a settlement it does not mean he is in favor of the settlement, and it means it is our only exit strategy at this point.

Mr. O'Dea said he appreciates the assurance from the Mayor that we are going to be as communicative as possible. He said two weeks ago in executive session, he lobbied for the best communication plan we could come up with and pushed all week for the maximum amount of notice we could give all people. He said we were also restricted by the legal negotiations in a very short time frame to come out of private conversation and a more public conversation. He said there was a question on the types of trucks, and the applicant did a traffic study which made assumptions but there is no prediction about what the trucks are going to look like. He said if the trucks are larger there will fewer of them and if they are smaller there will be more of them. He said what we were able to negotiate in the settlement was the average number of truck trips per day of 64, but a maximum of 68, which means they cannot go very much higher than the average but can go lower. He said the type of trucks will be based on the people who decide to come on a given day. He said he had talked in executive session about delaying this two weeks so people

had time to come back and talk to us and offer their opinion, but the attorneys advised us not to postpone for two weeks and to take action tonight. He said in 2015, the council approved the expanded use in the quarry which set us on the legal path we are on right now. He said if this current council were asked to vote if we should have the materials recycling facility in the quarry location, the vote would be six to zero against that idea. He said our choice is not between having and not having a recycling facility, but is between taking a settlement which is a known quantity, or going ahead with further litigation which is a risky path according to our attorneys. The risky path does not assure us we will get anything better or we will get anything at all out of litigation. He said the decision tonight is not if this a good or bad idea for our town, it's about do we take the negotiated settlement that is known to us and we know the conditions of, or do we take the unknown path of litigation. He said we inquired if the applicant would be open to a settlement that included not having a recycling facility but the applicant was not open to that path. He said we cannot force a settlement that includes a term that the other party would not accept. He said he believes the actions council took in 2018 has put us in the position to have a negotiated settlement which gained the concessions we have gained at this point. He said while not the best outcome for the town, it is the best we can do given the legal circumstances we have been placed into.

Ms. McCredie said she agrees with what the other council members had said so far. She said our hands have been tied in this matter and a settlement with as many concessions as possible was the best outcome for the borough. She said the original ordinance passed in 2015 and did not provide a lot of due diligence around hours, tonnage, or number of trucks and this agreement does have all of that information. She said we should have done more open and transparent communication. She said we had been advised by our attorneys not to put this out in public before until after the agenda was out on Thursday. She said they did speak about communication and how to go the public with this but did not close that out. She said she would like to see a lot of the NJDOT and NJDEP discussions and the involvement from our residents to them in opposition of this moving forward. She said we were advised by our attorneys not to postpone this beyond this meeting for risks that would be far greater than anything else.

Mayor Canose said the following resolution was prepared by Mr. Pidgeon based on the statement she made earlier in the meeting.

Mr. McQueen moved adoption of Resolution #20-143, **A RESOLUTION APPROVING QUARRY RECYCLING SETTLEMENT AGREEMENT**. Mr. Donahue seconded and a roll call vote followed. Mr. Donahue, Mr. Hammond, Ms. McCredie, Mr. McQueen, Mr. O'Dea, and Ms. Zamarra voted yes.

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

Mayor Canose opened the public hearing on **Ordinance #2020-1840, AUTHORIZING THE PURCHASE AND INSTALLATION OF SANITIZER STATIONS FOR BOROUGH PARKS AND APPROPRIATING \$10,000 FROM THE OPEN SPACE TRUST FUND.**

Peter Birnbaum, Round Top Road, asked if someone will be assigned and budgeted to keep the hand sanitizer stations operating. Mayor Canose said we have to research the cost involved and come up with a plan to maintain. She said Buildings & Grounds will handle the maintenance. Mr. O'Dea suggested the hand sanitizers and dog stations be co-located to reduce the amount of incremental maintenance to be required, and this was agreed on by council. Mr. O'Dea asked Mr. Hammond if the hand sanitizer stations will be effective. Mr. Hammond said if they are alcohol based or soap based they will be. Mr. O'Dea said we received input from the Shade Tree Committee on this ordinance and asked if we got any responses from committees. Mr. Suriano said Shade Tree was the only committee that commented, and Resolution #2010-100 that asks for input from five committees for appropriations from the open space trust fund is for the purchase of property and does not pertain to hand sanitizers. This ordinance was given to the Chairs of the five committees for their information. Hearing no further comments from the public, Mayor Canose closed the public hearing. Mr. McQueen moved to pass this ordinance on final reading and adopt as published. Mr. Hammond 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.

### **ORDINANCES (Introduction)**

Ms. Zamarra moved that **Ordinance #2020-1841, AN ORDINANCE CONCERNING STREET EXCAVATIONS AND SUPPLEMENTING AND AMENDING CHAPTER 14 OF THE BOROUGH CODE ENTITLED "STREETS AND SIDEWALKS"**, 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, May 26, 2020. Mr. Hammond seconded and the motion was approved with six yes votes.

### **RESOLUTIONS**

- #20-137      AUTHORIZING PAYMENT OF BILLS**
- #20-138      AUTHORIZING THE FILING OF TWO GRANT APPLICATIONS WITH NJDOT FOR CHESTNUT AVENUE (MILL AND PAVE) AND CRESTVIEW DRIVE (DRAINAGE, CURBING AND ROADWAY RECONSTRUCTION)**
- #20-139      EXPANSION OF EXISTING SHARED MUNICIPAL COURT BY ADDING BERNARDS TOWNSHIP**
- #20-140      APPROVING EMERGENCY TEMPORARY APPROPRIATIONS**
- #20-141      SETTING RECREATION PROGRAM FEES**

**#20-142      AUTHORIZING THE MAYOR TO SIGN AN AGREEMENT WITH  
NJ TRANSIT FOR THE MOUNT AIRY MURAL PROJECT**

Ms. Zamarra moved to adopt Resolutions #20-137 to #20-142, except #20-139. Mr. Donahue seconded the motion and a roll call vote followed. Mr. Donahue, Mr. Hammond, Ms. McCredie, Mr. McQueen, Mr. O’Dea, and Ms. Zamarra voted yes.

Regarding **Resolution #20-139, EXPANSION OF EXISTING SHARED MUNICIPAL COURT BY ADDING BERNARDS TOWNSHIP**, Mr. Hammond said the purpose of shared services is to improve efficiency and reduce costs and the resolution states it's a benefit to our borough, and asked where it is more efficient and less costly to the borough. Mr. O’Dea agreed and said since Bedminster is the town putting the proposal together, they would need to bring us this information so we can make an informed decision. Council agreed to table the resolution to the May 26<sup>th</sup> meeting.

**ITEMS OF BUSINESS****Tour of Somerville Bike Race Series**

The Tour of Somerville will be holding a bike race for Memorial Day weekend in 2021 and is seeking interest from central NJ communities. Mr. Donahue and Mr. Hammond asked to explore this event with The Tour of Somerville. Council had no objections to Mr. Donahue and Mr. Hammond’s participation.

**Recreation Program/Pool Survey**

Acting Recreation Director, Neil Mastrobuono, requested approval from council to send surveys out after Recreation programs and events and after the pool season is complete. He asked to send these surveys out to all members and participants via Survey Monkey. Council consent was given for this request.

**Environmental Commission ID Cards**

Johanna Wissinger, Environmental Commission Chair, requested ID cards for members of the Commission when doing site inspections. It was noted that these inspections are outdoor inspections and do not require entering homes so no background check is required. Council had no objections to this request and Mr. Pidgeon will talk to Chief Valentine and come up with a policy for ID cards.

### Mayor's Update

Mayor Canose delivered 225 masks to Bound Brook to distribute at their feeding program. She thanked Somerset NJ Mask Squad and Fairy Tale Inc., who donated the masks. We have been interviewing candidates for the Recreation Director position. Mayor Canose has attended webinars done by Sustainable Jersey with topics of creating creative communities and incorporating art into downtown. The Mayor's Wellness Campaign did a webinar with the Mayors of Patterson and Garwood who shared the different ways they are dealing with the pandemic. Mayor Canose was invited along with the Mayor of Bernards Township to attend the local clergy meeting with clergy from the Somerset Hills to talk about how we can support each other. She said churches are very involved with making masks, delivering food, and collecting food. Boxcar was providing their grocery delivery service and will be alternating Fridays from 10:00am to 1:00pm and ten of their boxes were donated to the food pantry. Mayor Canose attended a Mayor's meeting on Assembly Bill 3971. She said she took the online course offered by the JIF and urged other members of the governing body to take it as well. The Downtown Revitalization Committee will meet tomorrow night and hopefully finalize the redevelopment plan for 65 Morristown Road.

### Correspondence

Mayor Canose noted that we received acknowledgement letters from our legislatures that they received **Resolution #20-131 Urging Support Of H.R. 6467, The Coronavirus Community Relief Act (CCRA)**.

### Unfinished Business

Ms. Zamarra said Love To Ride Somerset is going on right now, which is sponsored by Ridewise. She said if anyone wants to participate they should go to [ridewise.org](http://ridewise.org) and to sign up for the Love To Ride Somerset Bike Challenge.

Ms. Zamarra said the Recreation Department has veterans' appreciation on the borough website where people can write something about veterans and we will put something together for Memorial Day. Mayor Canose said they are looking for a short video clip.

### New Business

Mr. McQueen discussed preparation for whenever the announcement from the Governor about easing back into reopening occurs and talked about desired resolutions for downtown enforcement when the easement to re-open happens. He said there is a two phase approach he would like to propose which potentially would have resolutions providing some broad sweeping relief of some ordinances and possibly another method that may involve negotiation with NJDOT. Mr. McQueen discussed the following options:

- Ease enforcement of ordinance #XX allowing outdoor dining, for all Bernardsville restaurants. Outdoor dining can occur so long as it meets state safety requirements and the edge of the table is not less than 3 foot of curbing and it does not expand beyond the frontage of the restaurant itself.
- Ease enforcement of ordinance #XX allowing outdoor commerce for all Bernardsville storefronts, so long as it meets state safety requirements and the edge of any merchandise is not less than 3 foot of curbing and it does not expand beyond the frontage.
- Resolution that all businesses and restaurants will comply with state health and social distancing mandates.

Mr. McQueen said he supports that we should not be more or less aggressive than the state. He said step two would expand our outdoor commerce and make our downtown more of an outdoor bazaar. He said if we did that, it would further encroach into sidewalks and allow the pedestrian walkway to be in the parking spaces of Route 202. He said this is very Olcott Square specific recommendation but if we want to prepare for when the governor says we are ready, we can have commerce and restaurants return as best as they possibly can. Mr. Donahue said this is proactive and sounds sensible. Mr. O’Dea said he supports a plan that is proactive and we can review items such as frontage and footage in some detail. Ms. McCredie said we would be doing it responsibly and making a nice community feel. Chief Valentine said we have tried some and we run into many roadblocks whether their regulatory or practical. He said it may work better on a smaller scale and by getting cooperation from the store owners and NJ Transit. Mr. McQueen said he would like to identify any obstacles ahead of time so that we can find the most efficient way as possible for our stores to reopen. Mr. O’Dea said from his experience on the Planning Board there are some requirements for traffic flow for allowing fire trucks to safely get through. Mr. Pidgeon suggested coming up with a concept plan and then we may find it necessary to talk to NJDOT, property owners, Chief Valentine, and the Fire Official. Mr. McQueen asked council to review what he circulated and form comments on it. He said we could also circulate it to Chief Valentine and the Fire Official. Mr. McQueen said he would work with Mr. Hammond and Mr. Pidgeon on this topic and bring to council at various decision points.

Mr. O’Dea spoke about honoring graduates and suggested having banners to honor them. He said members of the public can propose messages to be placed on the banners and the best ones will be picked. Mr. O’Dea said as far as funding goes, we could use donations similar to how we handled the veterans’ banners, or the Board of Education may have a graduation budget to help offset the cost. Mr. Hammond suggested possibly putting scrolling messages for graduates on our website. Mayor Canose said one parent suggested having lawn signs for graduates. Mr. Hammond said areas of the borough can be lined with pictures of graduates. Ms. McCredie said it is important to show our support for the graduates. Mr. Donahue suggested renting a Jumbo Tron. Ms. McCredie suggested to urge the governor to reopen as quickly and safely as possible. Mayor Canose said she participates on conference calls with the Governor’s Office and she along with others mention that. Mayor Canose said we can give our ideas to the Board of Education.

**ADJOURNMENT**

The meeting was adjourned at 11:20 p.m.

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