

BOROUGH OF BERNARDSVILLE
Mayor & Borough Council Meeting Minutes
May 26, 2020

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, 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 - None

APPROVAL OF MINUTES

Ms. Zamarra moved approval of minutes from April 27, 2020, May 4, 2020, and May 11, 2020. Mr. McQueen seconded and the motion was approved with six yes votes.

OPEN SESSION

Johanna Wissinger, Washington Corner Road and Environmental Commission member, spoke about the quarry. She suggested council hire an independent firm to periodically assess the environmental conditions at the quarry site. This would be in addition to the NJDEP inspections and Zoning Officer monitoring. She also suggested using the same firm for a baseline soil test. She asked council to safeguard a long-term practice for considering the environmental health of air, water, and soil which could potentially be impacted by the operations at the quarry.

Kerry Haselton, Mine Brook Road and Environmental Commission member, asked on behalf of the Commission if they could plant a garden on Borough land at the intersection of Olcott Avenue and Childsworth, commonly called the Triangle. This area is both visible and in close proximity to the High School and it would commemorate the graduating class of 2020. In consultation with Public Works, they would pinpoint a location, nestled under the existing native trees, for a part-shade spring garden of New Jersey native perennials. They have selected bleeding hearts and Virginia bluebells, which require no maintenance after planting, increase naturally over time, and whose foliage disappears in summer. They will consult with Peter Birnbaum for a third species, a bit taller and bright in color. Planting would take place in Fall 2020 for initial bloom in Spring 2021. She asked for permission to use this spot, and possibly the help of Public Works to prepare the bed for planting. The Environmental Commission will buy the plants, inspired by the offer of “seed” money from one of its members. Council consent was given for this project.

Tim Manning, Wavelength Audio, thanked the Mayor and Police Department for their efforts during the coronavirus pandemic. He offered his storefront in case others needed it for safe distancing if their business does not have the room for safe distancing.

Ed English, Olde Town Court, gave an update on the Farmers' Market. They chalk marked the spots where the vendors will be and have barricades ready for use. There will be a map that shows the layout in the Bernardsville News and hoping for a press release article that covers small points that the Health Department and Mr. Hammond have been reiterating such as no pets, one member per family, social distancing, and usage of masks.

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

ORDINANCES (Public Hearing) - None

Mayor Canose opened the public hearing on Ordinance #2020-1841, **AN ORDINANCE CONCERNING STREET EXCAVATIONS AND SUPPLEMENTING AND AMENDING CHAPTER 14 OF THE BOROUGH CODE ENTITLED "STREETS AND SIDEWALKS.** Hearing no comments from the public, Mayor Canose closed the public hearing. Mr. McQueen asked what the principal change is. Ms. Zamarra said that people were unaware of the moratorium policy and this ordinance not only clarifies the policy but it also sets a fee structure. Mr. Price said the Zoning Department is taking steps to alert residents of this policy. Ms. Zamarra moved to pass this ordinance on final reading and adopt as published. Mr. O'Dea 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) - None

Ms. Zamarra moved that Ordinance #2020-1842, **APPROPRIATING THE SUM OF \$125,780 FOR THE MILLING, PAVING & STRIPING OF MEEKER ROAD, MT. HARMONY ROAD & LAKEVIEW ROAD** 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, June 8, 2020. Mr. O'Dea seconded. Mr. Hammond asked if these were roads we have held back on repairs to help our budget due to the covid pandemic. Mr. O'Dea said it is for repair to roads that NJ American Water tore up. Ms. Zamarra said NJ American Water is giving us the money to fix the roads. The motion was approved with six yes votes.

RESOLUTIONS

#20-144 AUTHORIZING PAYMENT OF BILLS

- #20-145 ACCEPTING MONTHLY REPORTS**
- #20-146 RESOLUTION CANCELLING \$100,000 OF RETIREMENT TRUST FUND TO TRUST FUND BALANCE**
- #20-147 EXPANSION OF EXISTING SHARED MUNICIPAL COURT BY ADDING BERNARDS TOWNSHIP**
- #20-148 AUTHORIZING CHANGE ORDER #5 (FINAL) TO THE CONTRACT FOR SLOPE SECTION IMPROVEMENTS**
- #20-149 AUTHORIZING THE MAYOR TO SIGN TWO GRANT APPLICATIONS WITH NJDOT FOR CHESTNUT AVENUE (MILL AND PAVE) AND CRESTVIEW DRIVE (DRAINAGE, CURBING AND ROADWAY RECONSTRUCTION)**
- #20-150 ACKNOWLEDGING POSTPONEMENT OF THE WALKING PATH AT THE BOROUGH POND**
- #20-151 AUTHORIZING PERMISSION TO CRJ CONTRACTING TO USE THE BASKETBALL COURT PARKING LOT OFF SENEY DRIVE FOR A STAGING AREA FOR THE NJ AMERICAN WATER COMPANY MAIN REPLACEMENT PROJECT**
- #20-152 APPROVING EMERGENCY TEMPORARY APPROPRIATIONS**
- #20-153 A RESOLUTION REQUESTING PERMISSION FOR THE DEDICATION BY RIDER FOR THE ACCEPTANCE OF BEQUESTS AND GIFTS AS REQUIRED BY N.J.S.A. 40A:4-39 FOR USE BY THE ENVIRONMENTAL COMMISSION**
- #20-154 SETTING POOL MEMBERSHIP FEES**

Mr. McQueen moved to adopt Resolutions #20-144 to #20-153, except #20-147. Ms. McCredie 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.

Regarding Resolution #20-147, Mr. Hammond asked if there would be cost savings to the borough and how that would affect the efficiency of the court. Mr. Maresca said we would gain an additional half day. Mr. Hammond asked if we have any cost accounting and if our contribution could be less. Mr. McQueen asked about the efficiency of the court getting through summonses in a timely manner. Mr. Maresca said he would call Judy Sullivan, Bedminster

Township Administrator, to answer additional questions. This resolution will be discussed later in the meeting.

Regarding Resolution #20-154, Mayor Canose noted there were different options depending on when the pool potentially would open. Mr. McQueen asked what would happen if the executive order stands where there can only be a maximum 25 people gathered at one time and how it would provide some equity. Ms. McCredie said the Recreation Committee did not talk about equity from that perspective but looked at it if there could be 100 people at the pool at one time. Ted Dolan, Recreation Committee Chair, said they had NJRPA and American Red Cross guidance and are waiting for the state's guidance to make a determination. Mr. McQueen moved to adopt Resolution #20-154. 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.

COUNCIL COMMITTEE REPORTS

Engineering, Technology, and Public Works Committee, Ms. Zamarra said the committee agreed to delay the Washington Corner Road work until we complete work on Hull Road, Lindabury Avenue, and Lloyd Road. This is mainly due to funding. She said earlier in the meeting we passed a resolution to apply for NJDOT grants for Chestnut and Crestview. The committee talked about the walking path at the Polo Grounds and cost is an issue as well. They will review cost and design options at their next meeting on June 16th. Ms. McCredie said the ad hoc committee made recommendations and would like to know what the intention was. Mayor Canose said originally it was said the grandparents were having issues getting to the field to watch their grandchildren, and then they thought if the path went all the way around it would be a good walking area. Ms. Zamarra said the walking path around the pond will be pursued for the future. Mr. O'Dea said until the work on the dam is done, the walking path around the pond will be delayed. Ms. Zamarra said this will be done in September 2022. Work on Whitenack Road will be done in August. The change order for the slope remediation project was adopted earlier in the meeting. The library roof and HVAC projects are done. Bob Brightly said the slope section change order was a reduction of about \$42,000. He said the roadside channel was eroding on Whitenack Road and we are waiting for the NJDOT permit. Ms. Zamarra said the committee was in favor of the Environmental Commission project at the triangle at Olcott Avenue near Bernards High School.

Chief Valentine said the court has been holding session once per week and going to expand to twice per week but maybe not a whole day on the second day. Mr. O'Dea said they would do one day per week then a half day twice per month which amounts to an extra whole day per month. Mr. Maresca said he heard back from Judy Sullivan and court sessions are from 11:00am to 4:00pm on Tuesdays which is mostly four times per month and they are expanding it to 9:00am to 4:00pm. He said they plan to add a session on Thursdays two times per month from 9:00am to 4:00pm. Mr. McQueen said he believed this is subject to change based on volume and

Mr. Maresca agreed. Mr. McQueen moved to adopt Resolution #20-154. Ms. McCredie 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.

Finance Committee, Mr. O'Dea said the committee met to discuss final revisions to the 2020 budget and focused on assumptions of revenue and expenses of Recreation programs and pool. These revenues and expenses have largely been eliminated from the version they are working on and if we are thinking of opening the pool for a third or half a year we would have to think about the effect of that when introducing the budget. Any changes made were reviewed and discussed by the committee and staff. Mr. O'Dea encouraged council to get questions to borough staff on the table prior to June 8th, which is the anticipated meeting date for introduction of the budget.

Public Safety Committee, Mr. Hammond said we have had only two new cases of covid in the past 22 days which is less than one case per week. He said residents have done good work in complying with restrictions and good work by the Police Department working with residents. Chief Valentine is preparing paperwork for grants and reimbursements that will help financially. The Police Department and committee have been working with Ed English on how to work the Farmers' Market successfully, and with Mr. McQueen on a resolution to assist local businesses in successfully reopening.

Personnel Committee, Mr. McQueen said we have gone through the interview process and will discuss the Recreation Director position in closed session.

Land Use Committee, Mayor Canose said this committee met with the Downtown Redevelopment Committee and finalized the redevelopment plan for 65 Morristown Road. She said she sent the plan to council and asked for comments to be sent to her and this will be on the June 8th agenda. The committee is also working on the Quimby Village redevelopment plan. Regarding the Quimby Village plan, Mr. Hammond asked how council members could comment before the end of the process. Mayor Canose said the committee can share presentations from Topology with council members who could then meet in small groups to give input. Mr. O'Dea suggested periodic progress reports to keep the council updated.

Zoning, Mr. Price said they are restricted in the inspections they can do. They are still doing zoning enforcement, reviewing zoning permits, and signing construction permits and getting CO's (certificate of occupancy) to people. He said he does not have a housing report at this time. Mr. O'Dea mentioned potential social distancing on inspections if state guidelines permit and possible virtual inspections. Mr. Price said they are going to do virtual inspections on a trial basis starting June 1st.

Board of Health, Ms. McCredie said Health Officers from Bernards Township are waiting on state guidance for pools and camps. They are working on signage and procedures of how people will enter and exit for the Farmers' Market. They have been in touch with the schools discussing alternate measure they may need to take in September. She said they discussed library curbside

pickup which may be able to open soon. They discussed the attendance policy on boards and Mr. Friedman will follow up with Mr. Maresca.

Recreation Committee, Ms. McCredie thanked Neil Mastrobuono, Acting Recreation Director, for his work organizing pictures that were submitted and recording video of the Memorial Day ceremony and sending it out to those involved. The tennis courts were open today with guidelines and Mr. Hammond helped post them on social media. She said we are still awaiting pool and camp guidelines from the state and we will open if allowed. We need four to six weeks to open the pool and we are hoping to get enough notice from the Governor. Mr. McQueen asked about signs with guidelines for the batting cages and Mr. Suriano said those signs came in late today and will be posted tomorrow.

Planning Board, Mr. McQueen said the Board reviewed the new zoning overlay for the downtown project and is deliberating. He said they will continue and council will also have to have discussions on this topic as well. Keith Covington of Common Ground is attending Planning Board meetings to assist in this process.

Library Board, Mr. Hammond said they are planning a reopen when the state guidelines allow. He said despite the covid pandemic, they have been attracting new members at about 10 to 20 per month. They have done a lot of business with audio books and e-books. There is a subcommittee that has mapped out a phase three opening which includes curbside pickup, quarantining and cleaning books.

Housing Committee, Mr. McQueen said they discussed virtual rental inspections and thanked Mr. Price for his ideas in getting inspections done. The committee is discussing the property maintenance ordinance and will have a draft with some changes at a future council meeting.

ITEMS OF BUSINESS

Draft v1.03 Resolution Holding Enforcement of Certain Borough Ordinances in Abeyance in Order to Assist Local Businesses as They Reopen Following the Lifting of COVID-19 Executive Orders (also related request from The Coffee Shop)

Mr. McQueen said this resolution would not invalidate any Governor's Order. He said its purpose is to ease restrictions on sidewalk sales and outdoor dining. Mr. McQueen said both of these would become possible with consultation with the Zoning Office and Chief of Police. Mr. Pidgeon said the intent of this resolution is that the borough will not enforce the zoning ordinance and some of the site plan conditions for various businesses from now through the end of the year in order to allow those businesses to conduct their trade outside in accordance with the Governor's Orders. It is an attempt to help businesses when they cannot utilize the interior of their business. He said this only applies to things we have control over as we cannot override state law or executive orders. Chief Valentine said usually these requests would go through a

rigorous process and through the Planning Board where a permit is granted but we are doing this under an emergent basis. He said he is concerned with indemnification if we approve non-traditional uses. He said the indemnification ordinance states council may (not will) indemnify, and in his experience this decision is made after an incident and he would prefer to know about indemnification beforehand. Mr. Pidgeon agreed with Chief Valentine as to how the indemnification section of the borough code is written. He said we could add a provision to the resolution that the three officials who would be approving applications via Resolution #20-155 (Zoning Officer, Chief of Police, Fire Chief) would be indemnified and defended with exceptions such as intentionality or criminal content. Mr. O'Dea suggested asking business owners to recognize that they are asking for permission and this is not an approved way to do things but instead a plan that they put together that meets the state requirements. Chief Valentine suggested adding the Health Department to this resolution. Mayor Canose said we could add that the three approving officials (Zoning Officer, Chief of Police, Fire Chief) could consult with the Health Officer. Glenn Miller, Fire Chief, asked if we are requiring vendors and store owners to provide certificates of insurance as they make these requests. Jack Pidgeon deferred to the Risk Manager and Mr. Suriano was directed to contact Meeker Sharkey for a response. Mr. McQueen asked Mr. Price to draft an application for business owners to use regarding this resolution. Mr. Price, Chief Valentine, and Chief Miller will compose a draft with the advice to Mr. Pidgeon. Mr. McQueen asked about the possibility of putting ten to twelve picnic tables, possibly donated by local restaurants, at the north end of the train station for people to sit and have their food. Chief Valentine said that is possible, but we have to make sure we do not have vehicles driving near people. He said we would have to review and come up with a plan. Ms. McCredie said we have some creative business owners and it may not stop at sidewalk sales and outdoor dining and we might want to watch for that. Ed English said we had eighteen people looking to be vendors at the Farmers' Market and he had to tell six of them not to come because we could not use the north end of the train station parking lot. He said he is concerned that we told them not to come because that area could not be used, but now we are considering picnic tables in that area. Chief Valentine said it is a pedestrian safety issue if we allow the Farmers' Market to use the north end of the parking lot. He added we have not determined if the picnic tables could be utilized. Chief Valentine discussed the possibility of using the interior of the train station for various things. Mr. McQueen moved to adopt **Resolution #20-155, RESOLUTION HOLDING ENFORCEMENT OF CERTAIN BOROUGH ORDINANCES IN ABEYANCE IN ORDER TO ASSIST LOCAL BUSINESSES AS THEY REOPEN FOLLOWING THE LIFTING OF COVID-19 EXECUTIVE ORDERS.** 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.

NJ American Water Rate Increase, Plan to Participate With Rate Intervention

Mr. Maresca will certify funds for a professional services contract to fight the NJ American Water rate increase. The amount will be not to exceed \$4,200. Mr. O'Dea moved to adopt **Resolution #20-156, AUTHORIZING JOINING THE TOWNSHIP OF BEDMINSTER AND OTHER TOWNS FOR SPECIAL LEGAL COUNSEL FOR REVIEW, ADVICE**

AND COUNSEL PERTAINING TO A PETITION OF NEW JERSEY AMERICAN WATER COMPANY, INC. Mr. McQueen 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.

Boxcar Request for a Drive-In Theater

Mayor Canose said the request from Boxcar was to utilize the pool parking lot but they have determined it is not big enough and they are looking to utilize the Kings’ parking lot, which is private property. Mr. Pidgeon said this is more of special event on private property. Mr. Hammond asked if we have a special events ordinance. Mr. Pidgeon said we do but it only applies to special events held on borough property. Mr. Suriano will provide a copy to council. No decision on Boxcar’s request was necessary.

Complete Streets

Mr. Pidgeon will prepare a resolution for the June 8th meeting.

Mayor’s Update

Mayor Canose said there was another Census 2020 meeting. Somerset County has a 69% return rate and ranks fourth in the state. Bernardsville is at 69.7% and ranks ninth in the county. The Governor’s Office will now move their weekly calls with Mayors to every other week. The Mayors for Main Street Alliance now has fifteen Mayors and they are working on a comprehensive regional approach to help our economy. They are looking to get letters out to our legislators about safely reopening different businesses. The first meeting regarding the Recreation Master Plan was held. They worked with Brandstetter Carroll to tweak two surveys, one will be mailed to everyone and one can be done online. The whole process will be about ten months and we cannot do public engagement in these times so they will have to think about other ways to get people involved. Mayor Canose asked council to review the redevelopment plan for 65 Morristown Road and to submit comments to her by Tuesday and she will convey them to Topology. The Mayor spoke with School Superintendent Gretchen Dempsey today about graduation and what they are planning to do.

Mr. O’Dea asked what the statistical basis is for how Brandstetter Carroll is gathering the data and analyzing the information from their surveys to make sure it is representative of appropriate cross section of everyone in town. He said the emphasis on the surveys is going to be more than anticipated if they cannot engage face to face. Mayor Canose said they send one survey per household. Mr. Hammond suggested getting a broader response rather than one person in a household speak for everyone in that household. Ms. McCredie said they check locations of the surveys received to see that there is a good representation of the community. Mr. O’Dea asked if they can weigh responses more from residents than non-residents. Ms. McCredie said that they can differentiate between residents and non-residents. Ms. McCredie said if the drive-in movie

and Farmers' Market are going to take place on Saturdays, Brandstetter Carroll can get information person to person regarding the Recreation Master Plan. Mayor Canose said they can hand out the recreation master plan survey at the food pantry as well. Ms. McCredie said the food pantry is a good place to get participation for the census. Mayor Canose said she gave some handouts for the census to Pastor Dan Fenco. Chief Valentine said the police department distributed census information a few weeks ago as well. Ms. McCredie asked if Mayor Canose and Gretchen Dempsey needed assistance from council with the procedure for graduation, and if so, she would be willing to help. Mayor Canose said they are still discussing the best way to handle graduation and do not have a definitive method yet.

Correspondence - None

Unfinished Business

271 Mine Brook Road Subdivision, Mayor Canose said Mr. Pidgeon had advised that council needs to approve a surveyor. Mr. Pidgeon said council has to approve the concept of the subdivision and what they want the surveyor to do and then we can apply to the Planning Board for a subdivision. Mr. O'Dea said he is concerned about this subdivision creating a revenue change in property taxes and suggested consulting with Ed Kerwin, Tax Assessor, and asking what the existing property taxes would be and what it would be if the subdivision is done as drawn and find out if it would be beneficial to the borough to draw it differently. Mr. Hammond said he thought we would get some information of the ramifications if we lost that ratable if it became farmland assessed. Mr. O'Dea asked to find out what number of acres conveyed to lot 27 protects the borough interest in future property tax assessment and collection. Mr. Maresca will follow up with Mr. Kerwin. Mr. Pidgeon said we have to publicly bid but may have alternate bids with or without the easement.

Strategic Vision, Ms. McCredie asked what the next steps are following the meeting that took place on March 2nd about this topic. Mayor Canose said she reached out to the two people from Rutgers who were at the first meeting and they are currently furloughed. She said she can reach out to them to see if they are coming back. Mr. McQueen asked if we could find out what it would cost if they would facilitate additional sessions as a private contractor. Mayor Canose will follow up and find out.

New Business

Additional Meeting Dates, Mr. Hammond asked about scheduling additional meetings to our calendar given that there are a lot of activities this is going on such as outdoor dining, sidewalk sales, and 271 Mine Brook Road. Mayor Canose said we need 48 hours notice and can call a special meeting when we need one rather than have to cancel one. Mr. Pidgeon said with a special meeting, we would have to give a topic. Mayor Canose said OEM is on top of things and we can keep Mondays at 7:00pm open in case a need to have a meeting arises. Mr. McQueen said we can decide if we need a meeting by the preceding Wednesday or Thursday.

Tour of Somerville Bike Race Series, Mr. Donahue said he and Mr. Hammond had a call on Friday with the Director of Tour of Somerville Bike Race Series and they are making next year's Memorial Day race a more countywide event. He said we could have a race in Bernardsville and one in Basking Ridge leading up to Monday's Memorial Day race. They deliver the race, and our commitment would be providing a safe course, engaging the community and sponsors. He will follow up with them in a couple of weeks.

Free Tree Event, Ms. Zamarra said Ed English emailed about this event being rescheduled to June 10th from 9:00am to 1:00pm at the pool parking lot. A press release will soon go out.

OPEN SESSION

Mayor Canose opened the meeting to the public.

Olivia Manning said Downtown Bernardsville is on board with whatever council needs from them. She said they have mailing lists and Facebook followers. Ms. Manning said whatever ends up happening, sidewalk sales or outdoor dining, a campaign of some kind to promote the town in a positive manner is really what is needed.

Glenn Miller, Fire Chief, thanked paid borough staff for being reachable and approachable and for their efforts during this pandemic.

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

CLOSED SESSION

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

REOPEN

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

Mr. McQueen moved to adopt **Resolution #20-157, AUTHORIZING THE EMPLOYMENT OF ROBERT MARKOWICK AS RECREATION DIRECTOR**. 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.

ADJOURNMENT

The meeting was adjourned at 11:10 p.m. _____