

**BOROUGH OF BERNARDSVILLE**  
**Mayor & Borough Council Meeting Minutes**  
**July 13, 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 June 22, 2020. Mr. McQueen seconded and the motion was approved with five yes votes. Mr. Donahue abstained since he was absent from that meeting.

**OPEN SESSION**

Jeanne DePodwin, Old Colony Road, said she is not in favor of Ordinance #2020-1847, which would take council out of the appeal process for tree removal permits. She said adopting the ordinance would water down resident’s rights.

Marla Jennings, Old Colony Road, said she applied for and obtained a tree removal permit and got proper approval for it and is surprised she has to be at this meeting regarding a hearing for an appeal to the permit she received. This matter will be heard later in the meeting.

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

**ORDINANCES (Public Hearing) - None**

Mayor Canose opened the public hearing on Ordinance #2020-1843, **AN ORDINANCE CONCERNING USES PERMITTED IN THE I INDUSTRIAL DISTRICT AND AMENDING CHAPTER XII OF THE BOROUGH LAND DEVELOPMENT CODE ENTITLED “ZONING”**. Nicholas Pompelio, Municipal Attorney for Far Hills Borough, said he is speaking on behalf of the Borough of Far Hills and objects to this ordinance and requested truck traffic go north on Route 202 rather than south. Mr. Pidgeon said we cannot control the

truck routes and this ordinance is about permitted use. Mr. Hammond asked about part of the settlement that included building a bridge and asked what if the NJDEP does not grant approval. Mr. Pidgeon said he believes it would be approved in a reasonable amount of time. Ms. McCredie asked about a committee that was to be formed to monitor traffic in and out of Old Quarry Road. Mayor Canose said we are not at that point yet and have to wait for the NJDEP to approve the project. Mr. Price said if the NJDEP gives approval then the Planning Board has to approve and can add conditions. Mr. O'Dea said residents had asked about input with the NJDEP and we need to provide guidance for what they can do. Mr. Pidgeon suggested asking the DeCotiis firm what our next step should be. Hearing no comments from the public, Mayor Canose closed the public hearing. Mr. Donahue 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. Donahue, Mr. Hammond, Ms. McCredie, Mr. McQueen, Mr. O'Dea, and Ms. Zamarra voted yes.

Mayor Canose opened the public hearing on Ordinance #2020-1844, **ORDINANCE OF THE BOROUGH OF BERNARDSVILLE, COUNTY OF SOMERSET, NEW JERSEY ADOPTING THE REDEVELOPMENT PLAN FOR BLOCK 125 LOT 13 AS SHOWN ON THE OFFICIAL TAX MAP OF THE BOROUGH OF BERNARDSVILLE PURSUANT TO THE LOCAL REDEVELOPMENT AND HOUSING LAW, N.J.S.A. 40A:12A-1 ET SEQ. (AUDI SITE)**. Chris Colley of Topology gave a timeline of the redevelopment plan. Terry Thompson, Mine Mount Road and Planning Board member, thanked Topology for their work on the redevelopment plan and said she is pleased with the plan. Dave DePodwin, Old Colony Road, asked if any NJDEP remediations are required. Mr. Colley said whoever redevelops the site would have to do their environmental due diligence. Mr. DePodwin asked Mr. Colley if they received his letter regarding a pocket park at that site. Mr. Colley said he received it. Mayor Canose closed the public hearing. Mr. McQueen 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**

Mr. McQueen moved that Ordinance #2020-1845, **AN ORDINANCE AMENDING THE BOROUGH PROPERTY MAINTENANCE CODES IN THEIR ENTIRETY AND SUPPLEMENTING AND AMENDING CHAPTER 11 OF THE BOROUGH CODE ENTITLED "PROPERTY MAINTENANCE"**, 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, August 10, 2020. Mr. Hammond seconded and the motion was approved with six yes votes.

Mr. Hammond moved that Ordinance #2020-1846, **AN ORDINANCE CONCERNING PARKING IN THE LIBRARY PARKING LOT AND AMENDING CHAPTER VIII OF**

**THE BOROUGH CODE ENTITLED “PARKING LOTS AND OFF-STREET TRAFFIC REGULATIONS”**, 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, August 10, 2020. Ms. Zamarra seconded and the motion was approved with six yes votes.

Mr. O’Dea moved that Ordinance #2020-1847, **AN ORDINANCE CONCERNING TREE REMOVAL PERMITS 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., Monday, August 10, 2020. Mayor Canose noted that Mr. Pidgeon suggested that appeals to tree removal permits not go through council and this ordinance would remove that portion of the appeal process. Mr. Pidgeon said appeals would go to court which would streamline the process and make it more consistent with the Municipal Land Use Law (MLUL). Mr. Donahue seconded and the motion was approved with six yes votes.

Mr. Donahue moved that Ordinance #2020-1848, **AUTHORIZING THE ACQUISITION BY PURCHASE OR CONDEMNATION OF THE REAL PROPERTY LOCATED AT 210 NORTH FINLEY AVENUE, BLOCK 175, LOT 25, BERNARDSVILLE, NEW JERSEY NOW OWNED BY ALTOMARE REALTY INC**, 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, August 10, 2020. Mr. Hammond seconded and the motion was approved with six yes votes.

## RESOLUTIONS

- #20-180      AUTHORIZING PAYMENT OF BILLS**
- #20-181      ACCEPTING MONTHLY REPORTS**
- #20-182      A RESOLUTION REQUESTING PERMISSION FOR THE DEDICATION BY RIDER FOR UNIFORM CONSTRUCTION CODE FEE TRUST FUND REQUIRED BY NJSA 52:27D-124e et seq.**
- #20-183      A RESOLUTION REQUESTING PERMISSION FOR THE DEDICATION BY RIDER FOR AN AFFORDABLE HOUSING TRUST FUND REQUIRED BY NJSA 40A:12A-3 et seq**
- #20-184      AUTHORIZING AN AGREEMENT WITH THE SOMERSET HILLS REGIONAL SCHOOL DISTRICT TO PROVIDE SPECIAL POLICE OFFICERS IN DISTRICT SCHOOLS**

- #20-185      AMENDING SHARED MUNICIPAL COURT AGREEMENT**
- #20-186      AWARDING A CONTRACT FOR WHITENACK ROAD BANK STABILIZATION PROJECT**
- #20-187      AUTHORIZING DISPOSAL OF VEHICLES WITHOUT VALUE**
- #20-188      ACCEPTING A DONATION TO THE BERNARDSVILLE POLICE DEPARTMENT**
- #20-189      ADOPTING AN UPDATED PURCHASING MANUAL**
- #20-190      AMENDING THE PROFESSIONAL SERVICES CONTRACT WITH CLEARY, GIACOBBE, ALFIERI, & JACOBS**

Regarding Resolution #20-185, it was decided to table to a future meeting and get more information about the days and hours of the court operation and insert them into the agreement.

Regarding Resolution #20-189, Mr. Suriano noted the bid threshold has increased to \$44,000 and will be reflected on this resolution as well as the update purchasing manual.

Mr. McQueen moved to adopt Resolutions #20-180 to #20-190, except #20-185. 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.

Mayor Canose opened the public hearing on **RESOLUTION #20-191 ADOPTING THE 2020 MUNICIPAL BUDGET**. Hearing no comments from the public, Mayor Canose closed the public hearing. Mr. O’Dea said there were no changes to the budget since it was introduced and no new information to provide. Mr. McQueen suggested discussion in the third quarter of this year to have an earlier plan for going into next year that includes long term debt. Mr. O’Dea said the Finance Committee will discuss the multi-year debt service plan that is in place at their next meeting and this topic might be on the August 10<sup>th</sup> council agenda. Ms. McCredie mentioned setting expectations with department heads for next year’s budget. Ms. McCredie moved to pass Resolution #20-191. 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.

### **COUNCIL COMMITTEE REPORTS**

**Public Safety Committee**, Mr. Hammond said the committee is reviewing the anti-bias/anti-discrimination resolution that was discussed at the last council meeting. They are creating their own language to this resolution and hope that it will be ready for council consideration at the

August 10<sup>th</sup> meeting. Mr. Hammond said he reached out to the NJ League of Municipalities for a template for this resolution but they did not have one. He is also looking to the NJ Division of Civil Rights to see what they have. Mr. Hammond said there is a reduce in staffing in the Police Department with one position open that Chief Valentine has agreed to leave open due to our budget reconciliation process. The Police Department has had modifications of their procedures due to covid. Police Officers will be present at Bernards High School graduation on July 14<sup>th</sup>. Mr. Hammond said a request was received for speed mitigation on Lloyd Road and officers are increasing surveillance in that area along with the use of electronic speed monitors to acquire data.

**Finance Committee**, Mr. O’Dea said the 2020 budget was passed earlier in this meeting.

**Personnel Committee**, Mr. McQueen said the committee has not met since the last meeting and will schedule a meeting before the August 10<sup>th</sup> council meeting.

**Engineering, Technology, and Public Works Committee**, Ms. Zamarra said the Road Department is pitching in with the food pantry and also put up the graduation banners, reopened the playground including reinstalling the basketball hoops, putting woodchips on trails. The committee is working on signage for trails. She said information on road moratoriums is now on the website. Milling and Paving are in the works for Pickle Brook, Old Army (Mullens to Anderson Hill) and Meeker Roads, with Hull/Lindabury and Lloyd Roads to follow after construction is complete. NJDOT 2020 Grant Requests were submitted for Chestnut Ave. (Mill and Pave) and Crestview Dr. (Full Reconstruction, Curb and Drainage). The committee is reviewing the Walking Path at the Polo Grounds and the Recreation Committee is providing feedback. Work began June 15<sup>th</sup> for Hull Road and Lindabury Avenue. Work continued on Lloyd Road on July 9<sup>th</sup>. Whitenack Road bids were opened July 8<sup>th</sup>. Mt. Airy Road Mural Project is hopeful to begin in 2021. Library Roof and HVAC final inspections are scheduled for this week of July 13<sup>th</sup>. Library Mold Remediation work is due to be completed by the end of this week. Police Station Mold Remediation is in the works. Regarding the walking path at the Polo Grounds, the committee discussed accessibility and what constitutes an ADA trail and they are hoping to come up with a plan that meets their financial guidelines. They would like to get as much residents’ use out of it and have it be a safe surface. Ms. McCredie asked about the status of going out to bid for the walking path project after learning it would cost additional money. Ms. Zamarra said we were waiting for input from the Recreation Committee before going out to bid but the cost of going out to bid was already included in an ordinance and she will follow up with Mr. Walker. Mayor Canose said Laurelwood Trail is being spruced up nicely as part of an Eagle Scout project. She said Ed English is organizing a small group of hunters from Warren Blue Ridge and volunteers to clear a path at Peters’ Tract allowing hunters better access to the property from Claremont Road. Mr. Suriano said a hold harmless agreement and certificate of insurance will be filed.

**Land Use Committee**, Mayor Canose said the committee has a meeting tomorrow and other topics were covered earlier in the meeting.

**Housing**, Mr. McQueen said about a year ago the committee focused on areas with a large list of violations. He said most of those have been completely resolved and the remaining issues are far less severe and being addressed. Mr. McQueen thanked Geoff Price and Renee Apuzzo for their efforts.

**Zoning**, Mr. Price thanked council for introducing the amendments to the property maintenance ordinance earlier in the meeting.

**Board of Health**, Ms. McCredie said the Board will meet next Monday and have not met since the last report.

**Recreation Committee**, Ms. McCredie thanked the Recreation Department in getting the pool open and we are the only town in the area that opened camps this year. Mr. O'Dea also thanked the Recreation Department for going above and beyond to open the pool and camps for our residents. Ms. McCredie thanked Mr. Pidgeon for reaching out to the Board of Education attorney in discussing holding camps inside the school. Mr. Pidgeon said he wrote an agreement and is waiting to hear from Bob Markowick, Recreation Director. Mr. Hammond asked if we tried to market membership to those towns who did not open their pool this year. Ms. McCredie said she did not think so but will bring that up to the Recreation Committee and see if there are plans for that.

**Library Board**, Mr. Hammond said Madelyn English is retiring and thanked her for the great amount of work she has done for the Library. He said three employees have elected not to return to work for personal reasons so there will be a reduced staff at the Library. The Library is planning a gradual reopening.

**Green Team**, Ms. Zamarra thanked volunteers including Ed English and Madelyn English for their work in organizing and running the Farmers Market, which is going very well. She said they are still looking for additional volunteers.

**Environmental Commission**, Ms. Zamarra said the Commission has a new Facebook page that has a lot of good articles and information.

## ITEMS OF BUSINESS

### DePodwin Appeal of Shade Tree Permit Granted for 31 Old Colony Road

Marla Jennings, Old Colony Road, said the tree she applied to have removed is a beautiful tree but just in a really bad spot as debris from the tree falls six months out of the year and falls all over her driveway, on her car, and clogs her gutters and drains. She would prefer the tree not to be there and applied to have it removed and was granted. She said she does not rely on

neighbors to manage her water problems and does not feel it is her responsibility as the homeowner of 31 Old Colony Road to manage Mr. DePodwin's water problems and air conditioning desire.

Council members asked Renee Apuzzo questions about the review of tree removal applications. Ms. Apuzzo said there are not many instances where you cannot remove a tree and one is if it is on the state's historical tree list. She said there is nothing against taking down a healthy tree on an owner's lot. She said many people apply to take down healthy trees and in reviewing our tree protection ordinance that is why we have a tree replacement schedule and payment to a shade tree trust fund.

Ann Wazeter, said the Shade Tree Committee met in June after an appeal on this matter was made by Mr. DePodwin to the Shade Tree Committee. She said the committee heard from Ms. Jennings and Mr. DePodwin at that meeting. Ms. Wazeter said they did a roundtable where committee members in attendance made comments on this matter. There were two people from the committee absent at that meeting. Ms. Wazeter said the Shade Tree Committee members agreed with the Tree Conservation Officer's (Ms. Apuzzo) decision to grant the permit to Ms. Jennings. When asked if the Shade Tree Committee had a quorum, Ms. Wazeter said she believes they did.

Dave DePodwin, Old Colony Road, said he is concerned for potential property damage to the inside and outside of his property, such as flooding and erosion, if Ms. Jennings is allowed to remove the tree that she applied to have taken down. Mr. DePodwin supplied four photos of the subject tree that Ms. Jennings applied to have removed. He said he feels the tree removal permit granted to Ms. Jennings should be retracted and invalid for three reasons which are 1) property damage, 2) the spirit of protection and conservation detailed in the tree protection ordinance has not been met, and 3) the permit has been granted based on criteria not stated in the Ordinance and is therefore invalid.

Jeanne DePodwin, Old Colony Road, said section 13-8, Review Standards, indicates a tree removal permit should not result in damage to the subject property or adjacent properties and wanted clarification of the standards used by Ms. Apuzzo for reviewing tree removal applications. Ms. Apuzzo said the section referred to by Ms. DePodwin regarding review standards are meant for when there is a site plan before the Planning Board or Zoning Board and they are not used for this particular tree removal permit. Mr. Pidgeon said there is nothing in the record that would allow the council to determine if this tree removal would result in drainage issues and stated that we would need expert testimony to make that assessment. Mr. Hammond asked what the replacement plan is and Ms. Jennings said she plans to put seven trees in that location. Mr. Pidgeon reviewed the ordinance section 13-8 and said it was for non-Planning Board/Zoning Board applications. Mayor Canose said since section 13-8 is for items not before the Planning Board/Zoning Board so it would apply in this case except that we do not have expert testimony. It was noted by Mr. Pidgeon that the onus of getting expert testimony to assess potential damage would fall to Mr. DePodwin.

Johanna Wissinger, Shade Tree Committee member, said she fully supports Ms. Apuzzo's decision in granting the tree removal permit. She said the ordinance needs to be balanced and it considers homeowner's rights, environmental protections, and neighbors. She said she would like to hear what an expert's evaluation of the tree in question would be.

Peter Birnbaum, Round Top Road, said the problem we are having is that our ordinances are old and from another period of time, but their intention is very relevant. He said Ms. Apuzzo does a great job as Tree Conservation Officer. He said people need to have an ability and a forum for some relief. He said Ordinance #2020-1847, which will have a public hearing at the next meeting, will terminate the appeal process to council and he feels this is ludicrous. He said council has the ability to turn this back tonight because we do not know if there was a proper vote or a quorum at the Shade Tree Committee when this matter was discussed. He suggested they send it back for more information and a second review. He suggested knowing how many trees have been taken down on that property for the last five to ten years.

Terry Thompson, Mine Mount Road, said she agrees with Johanna Wissinger's statement about the tree protection ordinance. She said she feels the DePodwin's are looking for approval of taking someone else's property.

Mr. McQueen moved to affirm the decision of the Tree Conservation Officer to issue a permit to Ms. Jennings to remove the tree. Ms. McCredie seconded and a roll call vote followed. Mr. Donahue, Mr. Hammond, Ms. McCredie, Mr. McQueen, Mr. O'Dea, and Ms. Zamarra voted yes.

### **Borough Policies**

#### **(1) Borough Infection Prevention Policy and DPW Amendments**

#### **(2) Travel Advisory and Post-Travel Quarantine Policy**

#### **(3) Supplement to Infection Control Policy for Non-Contractual Employees**

Regarding #1, Ms. McCredie said the section about requiring face coverings in the parking lot are not consistent with not wearing face coverings if no one is within six feet of another person. She suggested changing that section to make it consistent with the rest of the policy. There were no objections from council. Regarding #2 and #3, the Personnel Committee will review and come back with a recommendation to council at the special meeting on July 20<sup>th</sup>. It was noted to move the start time of the July 20<sup>th</sup> meeting from 7:00pm to 6:00pm to allow time to discuss this topic.

### **Drive-in Concert at Library in September**

Nancy Verduin, Friends of the Bernardsville Library, was present to discuss this event. Mr. Hammond mention cars cannot idle in the parking lot in reference to the part of the request to stream audio through the FM radio of the cars in attendance. Ms. Verduin said they may not use that option. Chief Valentine said restrictions that are in place at the time of the event need to be



followed. Council consent was given for the concept of this event and Friends of the Bernardsville Library will work with Chief Valentine, Chief Miller, and Geoff Price on the setup/logistics of this event.

**Request for Partial Refund of Train Station Parking Decal Fee**

Council did not approve the request of a train station parking decal holder for a refund of certain months that the decal was not used.

**Request for Sewer User Fee Relief Due to Tenant Vacancy**

Council did not approve the request of relief for sewer user fees due to a tenant vacating the premises four months ago and there was little water usage.

**Inactive ABC Licenses**

Mayor Canose and Mr. O’Dea will reach out to the owner of the inactive consumption license and discuss options to get the license back in use.

**Mayor’s Update**

Mayor Canose was on a Use of Force Policy webinar along with Mr. Hammond on June 24<sup>th</sup>. The webinar was given by the Attorney General. The Diversity Council had their first meeting with a goal to discuss our own biases and experiences and then work on identifying and creating an action plan to address those challenges unique to our community. There was a call for action meeting with the Freeholders about, from a county level, the kinds of policing policies we can do. Mayor Canose said she sent council the complete count numbers after a meeting on June 25<sup>th</sup>. Terry Thompson is assisting with this process and the next step is to reach out to renters using data provided by Mr. Price. The Somerset County Economic Recovery Task Force, which the mayor serves on, has submitted a report to the Freeholders and one recommendation was that the county ask the state for some of the COVID relief funds they received. The survey is now live for the Recreation Master Plan after being refined by the Steering Committee. Mayor Canose asked Recreation to have someone appointed to the Steering Committee. Council will have a vision plan meeting on July 20<sup>th</sup> at 6:00pm. The school is going to use the banners we hung throughout the center of town for project graduation. Ms. McCredie mentioned Ted Dolan of the Recreation Committee had indicated he would serve on the Steering Committee.

**Correspondence - Letter from Senator Bucco, Overdose Awareness Day in NJ**

Council agreed to have a resolution on the August 10<sup>th</sup> agenda that would support Senator Bucco’s legislation to make August 31<sup>st</sup> Overdose Awareness Day in New Jersey.

**Unfinished Business** - None

**New Business** - None

**OPEN SESSION**

Mayor Canose opened the meeting to the public.

Glenn Miller, Fire Chief, said as we start going through covid policies for the borough, we have to be careful with broad policy. He said Police, Fire, and EMS are put into a different scenario than other employees. He said there should also be a medical oversight should there be an exposure or quarantine need.

Terry Thompson, Mine Mount Road, spoke about the Census and said Complete Count feels that tenants will not be reached in Bernardsville. She asked for letters to be inserted in the tax bill mailout to all landlords for giving to their tenants so they can be aware they should complete a census form.

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

**CLOSED SESSION** - None

**ADJOURNMENT**

The meeting was adjourned at 11:45 p.m.

---