

April 2, 2012

The regular meeting of Mayor and Council of the Borough of Bay Head was held on April 2, 2012 at 7:00 PM in the Council Chambers of the Borough Hall.

Mayor Curtis called the meeting to order and welcomed everyone. He asked everyone to stand and join him in the Pledge of Allegiance to the Flag.

The roll was called for attendance. Present were Mayor Curtis and Councilmembers DeFilippis, Green, Barnes, Glass, Magory, Urner.

Mayor Curtis read the following statement:

Ladies and gentlemen, pursuant to the applicable portions of the New Jersey Open Public Meetings Act, adequate notice of this meeting has been given. This meeting is listed on an annual schedule of meetings of this Governing Body which was posted in the main corridor of the Borough Hall and was published in *The Asbury Park Press*.

Councilmember Barnes moved to approve the minutes of March 5, 2012. The motion was seconded by Councilmember Glass and passed on roll call vote. YEAS: DeFilippis, Barnes, Glass, Magory, Urner. NAYS: None. NOT VOTING: Green.

Mayor Curtis made the following appointment:

Damian J. Cardone, Member of the Bay Head Fire Company

Robert F. Hoffman, Chief of Police

Councilmember Glass offered Resolution 2012-53 authorizing the execution of a contract with the Bay Head Chief of Police and moved it be adopted. This motion was seconded by Councilmember Barnes and passed on roll call vote. YEAS: DeFilippis, Green, Barnes, Glass, Magory, Urner. NAYS: None. A copy of the resolution is attached to these minutes.

Jean L. Cipriani, Borough Attorney administered the Oath of Office to Robert F. Hoffman, Chief of Police.

Mayor Curtis opened the public hearing of the 2012 Municipal Budget.

Mayor Curtis introduced Robert A. Hulsart, Auditor, from the firm of Robert A. Hulsart & Company and April J. Yezzi, CFO.

Connie Cardillo, 534 West Lake Avenue: Were there any comments to the budget?

Municipal Clerk: The Audit has comments not the budget.

There being no further questions or comments the public hearing was closed.

Councilmember Urner offered Resolution 2012-61 approving the 2012 Municipal Budget and moved it be adopted. The motion was seconded by Councilmember Glass and passed on roll call vote. YEAS: DeFilippis, Green, Barnes, Glass, Magory, Urner. NAYS: None. A copy of the resolution is attached to these minutes.

Mr. Hulsart: This is a very good budget after a lot of hard work.

Mayor Curtis: We are in good standing and I would like to congratulate the Finance Committee for all their work on this budget.

Mayor Curtis called for Reports of Standing Committees.

Councilmember DeFilippis, Public Works: On May 9th we will begin rebuilding Strickland, Johnson and Mount between Main Avenue and the ocean. Curbs will be replaced and the streets will be milled with an overlay applied. The work could be completed by mid May. All residents will be notified by mail as to when workers will be on those streets.

Councilmember Green, Parks, Grounds and Recreation, had no report.

Councilmember Barnes, Legal and Planning: We are reaching out to our COAH attorney, Jeffrey Surrenian seeking his advice as to what steps need to be taken before July to protect our interest.

Councilmember Glass, Public Safety, read the Police Activity report for the month of March. A copy of the report is attached to these minutes. We will also be participating in “Operation Take Back New Jersey” on Saturday, April 28th from 10 am to 2pm. This is a day to dispose of your unused, unwanted, and expired medicine. Drop off will be at our Police Department.

Councilmember Barnes: There has been a big increase in car break ins recently.

Councilmember Glass: The cars were unlocked and I believe they found the person responsible.

Councilmember Barnes: Everyone should make sure their cars are locked.

Councilmember Magory, Public Services, read the Zoning and Construction report for the month of March. A copy of the report is attached to these minutes.

Councilmember Urner, Finance, had no report.

Mayor Curtis called for Clerk’s Correspondence.

Mrs. Applegate offered a request from Seaweeders Garden Club of Bay Head and Mantoloking to use one of the truck bays at Public Works to prepare their May Day Baskets on Monday, April 30th from noon to 3:30 pm.

Councilmember Glass moved to approve the request. This motion was seconded by Councilmember Magory and passed on roll call vote. YEAS: DeFilippis, Green, Barnes, Glass, Magory, Urner. NAYS: None.

Mayor Curtis called for Ordinance for Second Reading, Public Discussion and Vote.

Councilmember Barnes offered Ordinance 2012-01 entitled:

**AN ORDINANCE OF THE BOROUGH OF BAY HEAD
COUNTY OF OCEAN, STATE OF NEW JERSEY,
AMENDING AND SUPPLEMENTING THE MUNICIPAL
CODE OF THE BOROUGH OF BAY HEAD, SO AS TO
AMEND CHAPTER 147, ENTITLED "LAND USE"**

Councilmember Barnes moved the ordinance be adopted on second and final passage. The motion was seconded by Councilmember Magory.

Councilmember DeFilippis: How could we be so restrictive of all other businesses but not realtors?

Ms. Cipriani: There is a rational basis to treat real estate business differently – the directional sign is only up for a number of hours.

Councilmember DeFilippis: If I was selling a boat and I need a directional sign to my house would I be allowed to have one?

Councilmember Green: The component of that is to help real estate – the same could be said for contractors and landscapers wanting to place signs which would also be for a limited time and in the past we have declined their request.

Councilmember Magory: This is only allowing directional signs on five distinct streets. If there is a request for contractors and landscapers it could be addressed in the future.

Ms. Cipriani: A benefit to one doesn't prevent others from asking.

Councilmember Urner: I feel there shouldn't be a fee and that a permit is not required. I think enforcement will be difficult.

Councilmember Barnes: The permit is required to keep a record of the event.

Mayor Curtis: If a home on Maple is being sold by the owner can they put up directional signs?

Ms. Cipriani: Yes.

Councilmember Urner: I think we should do anything we can do to help realtors. I object to the permit and the fee.

Mayor Curtis: There are three parts to this ordinance, can we split the vote?

Ms. Cipriani: No – removal of one would be substantial change and require the ordinance to be republished as a first reading and schedule the public hearing at the next meeting.

Mayor Curtis opened the meeting to the public for a hearing on Ordinance 2012-01.

Connie Cardillo, 534 West Lake Avenue: You have a fee for a garage sale.

Susie VanSchoick, 111 Meadow Avenue: Regarding garage sales – you are limited to two per year. I don't understand why we have to pay a fee. I feel if the ordinance is abused a summons can be issued.

Bob Hein, 204 East Avenue: I agree that enforcement would be an issue. You could have 48 signs on Bridge Avenue.

Helene DeFilippis, 78 Goetze Street: I agree – there has to be a limit of one per property per weekend.

Ms. Cardillo: There are three properties for sale on West Lake Avenue between Bridge and Park. You could have three directional signs on Bridge Avenue for those.

Ms. VanSchoick: How many open houses do you think we have in one weekend? How about \$25.00 fee for the whole year?

Councilmember Barnes: There is a penalty if the ordinance is violated.

Shelly Haas Kirk, 51 Egbert St.: There seems to be a lot of administrative issues – why not charge a one time fee. It also seems that enforcing is going to be a burden.

Councilmember Magory: I don't think there will be that many signs.

There being no further comments or questions Mayor Curtis closed the public hearing on this ordinance.

Councilmember Barnes: I don't care about the fee – it could be removed or it could be annual.

Councilmember DeFilippis: Would a homeowner on their own have to pay the annual fee to place directional signs if they are selling it themselves?

Ms. Cipriani: The individual would pay the same fee.

Councilmember Glass: How about \$1.00 fee?

Councilmember Urner: \$1.00 wouldn't be worth the time.

Councilmember Urner moved to amend the ordinance to require \$50.00 annual fee which would cover the agency and or individual. The motion was seconded by Councilmember Glass.

Councilmember Magory: I think \$50.00 is out of line. I would rather it go to zero.

Councilmember Urner withdrew his motion to increase the fee to \$50.00. Councilmember Glass withdrew her second to the motion.

Councilmember Glass moved to amend the ordinance removing the \$5.00 fee. The motion was seconded by Councilmember Magory.

Mayor Curtis opened the meeting to the public for a discussion on the removal of the fee.

Ms. DeFilippis: I agree.

Ms. VanSchoick: I still don't understand why we have to go and get a permit for a directional sign – fine us is we don't comply with the ordinance – this is just one more step that is not needed.

Councilmember Barnes: Record keeping is an important part on our end.

Ms. Kirk: If we want to have an open house and don't need directional signs we don't have to obtain a permit. If we do use directional signs can we allow balloons?

Councilmember Barnes: Balloons are not addressed.

The motion amending Ordinance 2012-01 by removing the \$5.00 fee passed on roll call vote. YEAS: Barnes, Glass, Magory, Urner. NAYS: DeFilippis, Green. A copy of this ordinance is attached to these minutes.

Councilmember Urner offered Ordinance 2012-03 entitled:

AN ORDINANCE ESTABLISHING SALARY, WAGES, HOLIDAYS, SICK LEAVE, VACATIONS AND OTHER BENEFITS OF EMPLOYMENT FOR THE POLICE DEPARTMENT OF THE BOROUGH OF AY HEAD OCEAN COUNTY, NEW JERSEY FOR THE CALENDAR YEAR 2012 THROUGH 2015

Councilmember Urner moved to approve this ordinance on second and final passage. The motion was seconded by Councilmember Glass.

Mayor Curtis opened the meeting to the public for a hearing on this ordinance.

There being no comments or questions the public hearing was closed.

The motion to adopt passed on roll call vote. YEAS: DeFilippis, Green, Barnes, Glass, Magory, Urner. NAYS: None. A copy of the ordinance is attached to these minutes.

Councilmember Urner offered Ordinance 2012-04 entitled:

**AN ORDINANCE OF THE BOROUGH OF BAY HEAD
OCEAN COUNTY, STATE OF NEW JERSEY, TO
EXCEED THE 2012 MUNICIPAL BUDGET
APPROPRIATIONS LIMITS AND TO ESTABLISH A
CAP BANK (N.J.S.A. 40A:45.14)**

Councilmember Urner moved the ordinance be adopted on second and final passage. The motion was seconded by Councilmember Glass.

Mayor Curtis opened the meeting to the public for a hearing on this ordinance.

There being no comments or questions the public hearing was closed.

The motion to adopt was passed on roll call vote. YEAS: DeFilippis, Green, Barnes, Glass, Magory, Urner. NAYS: None. A copy of the ordinance is attached to these minutes.

Mayor Curtis called for Ordinance, First Reading.

Councilmember Barnes offered Ordinance 2012-05 entitled:

**AN ORDINANCE TO ESTABLISH REQUIREMENTS
FOR PRIVATE STORM DRAIN INLET RETROFITTING
AND TO PRESCRIBE PENALTIES FOR THE FAILURE
TO COMPLY WITH THIS ORDINANCE IN AND BY THE
BOROUGH OF BAY HEAD, COUNTY OF OCEAN,
NEW JERSEY**

Councilmember Barnes moved to approve this ordinance on first reading, which motion was seconded by Councilmember Urner.

The motion passed on roll call vote. YEAS: DeFilippis, Green, Barnes, Glass, Magory, Urner. NAYS: None. A copy of this ordinance is attached to these minutes.

Councilmember Barnes offered Ordinance 2012-06 entitled:

**AN ORDINANCE TO ESTABLISH REQUIREMENTS
FOR REFUSE CONTAINERS AND DUMPSTERS AND
TO PRESCRIBE PENALTIES FOR THE FAILURE TO
COMPLY WITH THIS ORDINANCE IN AND BY THE**

**BOROUGH OF BAY HEAD, COUNTY OF OCEAN,
NEW JERSEY**

Councilmember Barnes moved to approve this ordinance on first reading, which motion was seconded by Councilmember Glass.

The motion passed on roll call vote. YEAS: DeFilippis, Green, Barnes, Glass, Magory, Urner. NAYS: None. A copy of this ordinance is attached to these minutes.

Mayor Curtis called for Unfinished Business.

Councilmember Green: I would like to remind everyone to come out and participate in the second watershed-wide clean up of Barnegat Bay on May 9th. We will meet at the firehouse at 9 am.

Mayor Curtis called for New Business and Resolutions.

Councilmember DeFilippis offered Resolution 2012-50 authorizing acceptance of 2009 NJDOT Municipal Aid Roadway Improvements to Park Avenue project, release of contractor's final payment, acceptance of two-year Maintenance Bond and release of a Performance guarantee posted by C. J. Hesse, Inc. and moved it be adopted. The motion was seconded by Councilmember Green and passed on roll call vote. YEAS: DeFilippis, Green, Barnes, Glass, Magory, Urner. NAYS: None. A copy of the resolution is attached to these minutes.

Councilmember Green offered Resolution 2012-51 authorizing contract with Princeton Hydro, LLC to access water quality and ecological status of Twilight Lake and moved it be adopted. The motion was seconded by Councilmember Glass.

Councilmember Barnes: Did we receive other quotes other than Princeton Hydro?

Councilmember Green: They are experts in the State and top notch in this field.

Councilmember Barnes: When do we get the results?

Councilmember Green: Hopefully six weeks.

Councilmember Barnes: What will be the procedure once the study is concluded?

Councilmember Green: Mitigation will be determined by the data.

Councilmember Barnes: Is grant money available?

Councilmember Green: We will have to wait for the results.

Councilmember Magory: Based on what we know today – can't we ask the county or the state to do the testing?

Councilmember Urner: Just the study is in the budget.

Councilmember Green: We have to have the data to apply for the grant.

Councilmember DeFilippis: Ten years ago a study was done but they only measured for heavy metals – if you dredge you have to find a future home so we went through that analysis. We will have to dredge because of the amount of materials that have been pumped from the station in Point Pleasant Beach. Ocean County is responsible for the materials. Measuring will take six weeks.

Councilmember Green: If it is detriment to Barnegat Bay then we will seek funding, but without the data we can't move forward.

This motion passed on roll call vote. YEAS: DeFilippis, Green, Barnes, Glass, Magory, Urner. NAYS: None. A copy of the resolution is attached to these minutes.

Councilmember Magory offered Resolution 2012-52 authorizing joining New Jersey Sustainable Energy Joint Meeting (NJSEM) and moved it be adopted. This motion was seconded by Councilmember Barnes and passed on roll call vote. YEAS: DeFilippis, Green, Barnes, Glass, Magory, Urner. NAYS: None. A copy of the resolution is attached to these minutes.

Councilmember Urner offered Resolution 2012-54 providing for salaries and compensation of the Police Department of the Borough of Bay Head for 2012 and moved it be adopted. This motion was seconded by Councilmember Glass and passed on roll call vote. YEAS: DeFilippis, Green, Barnes, Glass, Magory, Urner. NAYS: None. A copy of the resolution is attached to these minutes.

Councilmember Urner offered Resolution 2012-57 authorizing refunds for overpayments of property or sewer taxes and moved it be adopted. This motion was seconded by Councilmember Glass and passed on roll call vote. YEAS: DeFilippis, Green, Barnes, Glass, Magory, Urner. NAYS: None. A copy of the resolution is attached to these minutes.

Councilmember Green offered Resolution 2012-56 authorizing execution of all documents necessary to effectuate Environmental Infrastructure Trust for a Clean Water Barnegat Bay Watershed Project (SFY2012) Grant for the purchase of a Vacuum Cleaner/Sewer/Jet and moved it be adopted. The motion was seconded by Councilmember Glass.

Councilmember Urner: Are funds in the budget?

Councilmember Green: This is 100% forgiveness loan through Barnegat Bay Initiative.

Councilmember Urner left the meeting.

Councilmember Glass: This is just to accept the grant?

Councilmember Green: Yes, funds are available for this particular piece of equipment.

Councilmember Barnes: This piece of equipment will be shared with Mantoloking?

Councilmember Green: Yes. Mantoloking will borrow the truck – this will be a Shared Service with them. It was in our interest to enter the application as sharing of service.

Councilmember Barnes: If Mantoloking breaks it do they fix it?

Councilmember DeFilippis: On whose books will it be carried?

Councilmember Green: Borough of Bay Head.

Councilmember DeFilippis: Maintenance also?

Councilmember Green: Yes.

Councilmember DeFilippis: At present we have an outside service at a cost of \$7,000 to \$9,000 per year with their equipment. We should figure what our costs will be.

Councilmember Green: Calculating labor we will be saving \$7,000 to \$9,000 per year.

Councilmember DeFilippis: We are paying for the labor and the maintenance of this truck. I would like to see how it works out. It may or may not be a savings and I would like to see how Chip works out the numbers.

Councilmember Magory: Have our people been trained on this equipment?

Councilmember Green: Chip is confident they can operate the vehicle.

Mayor Curtis: Passage of this resolution enables us to get the money to buy it. There will be other follow up resolutions to go out to bid for the purchase.

Councilmember Green: The funding covers the equipment, maintenance and labor.

This motion passed on roll call vote. YEAS: DeFilippis, Green, Barnes, Glass, Magory. NAYS: None. A copy of the resolution is attached to these minutes.

Councilmember Green offered Resolution 2012-60 authorizing the receipt of bids for Vacuum Cleaner/Sewer Jet and moved it be adopted. This motion was seconded by Councilmember Glass and passed on roll

call vote. YEAS: DeFilippis, Green, Barnes, Glass, Magory. NAYS: None. Councilmember Urner had left the meeting. A copy of the resolution is attached to these minutes.

Councilmember Barnes offered Resolution 2012-58 awarding Peddler's License for the year 2012 to Robert M. Davis for a Hot Dog Cart/Truck and moved it be adopted. This motion was seconded by Councilmember Magory and passed on roll call vote. YEAS: DeFilippis, Green, Barnes, Glass, Magory. NAYS: None. A copy of the resolution is attached to these minutes.

Councilmember Green offered Resolution 2012-59 awarding a contract to All Surface Asphalt Paving for the Reconstruction of the Tennis Courts and moved it be adopted. This motion was seconded by Councilmember Glass and passed on roll call vote. YEAS: DeFilippis, Green, Barnes, Glass, Magory. NAYS: None. A copy of the resolution is attached to these minutes.

Mayor Curtis opened the meeting for Public Discussion.

Ms. Cardillo: What kind of surface will be on the tennis courts?

Councilmember Green: Asphalt with drainage.

Mayor Curtis: It will be similar to the school.

Ms. Cardillo: Super, awesome, wonderful – is it guaranteed for 25 years like the school?

Councilmember Green: I don't know that. We will have to check the specs.

Dr. Renzulli, 409 East Avenue: I read the article in the *Asbury Park Press* concerning the lawsuit with the Army Corps of Engineers and Harvey Cedars. How are our discussions with them?

Councilmember Green: We haven't spoken with them recently.

Dr. Renzulli: I assume at one point we will be visited by the Army Corps again.

Councilmember Green: They have lost steam and money. We do not have jurisdiction over the beach.

Mr. Hein: Thank you for doing a great job.

Ms. VanSciver: Thank you for the directional sign approval.

There being no further comments Councilmember DeFilippis moved to approve the vouchers for payment, which motion was seconded by Councilmember Glass and passed on roll call vote. YEAS: DeFilippis, Green, Barnes, Glass, Magory. NAYS: None. A list of the vouchers is attached to these minutes.

The meeting was adjourned.

**Patricia M. Applegate, RMC
Municipal Clerk**

William W. Curtis, Mayor