

**August 20, 2012
Non-Voter Taxpayer Meeting**

The 5th Annual Non-Voter Taxpayer Meeting of Mayor and Council of the Borough of Bay Head was held on August 20, 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.

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 Ocean Star*.

The roll was called for attendance. Present were Mayor Curtis and Councilmember DeFilippis, Green, Barnes, Glass, Magory, Urner and Borough Attorney, Jean L. Cipriani.

Mayor Curtis: We are going to dispense with the Reports of Standing Committees but I would like each member of Council to introduce themselves and to explain what facets of this town they are responsible for.

Council President John DeFilippis: Good evening, I am Council President and among my other functions I take care of sanitary sewer systems and other public works functions including any water related issues that have to be improved. Also we do all our road repairs. We do road reconstruction. We also take care of all storm drains, storm water management, and various other things that pop up during the course of the year.

Councilmember D'Arcy Rohan Green: I am very privileged and honored to serve all the residents of Bay Head including the not voting residents. Thank you so much for coming out – it is a great showing and I am thrilled to have you. I am the Chair of the Parks, Grounds and Recreation Committee, I serve on the Finance Committee as well as the Public Works Committee. I am the liaison to the B.H.I.A. and work with President, Tom Gage and his staff for any beach related issues as well as the NJ Dept. of Environmental Protection coordinator liaison. We have several committees under that umbrella such as Go Bay Head, Mayor's Wellness Campaign, Environmental Commission and Beautification Committee, so we are busy.

Councilmember Jennifer Barnes-Gambert: I am the Chair of the Legal and Planning Committee, that kind of fell in my lap because I am an Attorney so that was an appropriate fit. I also serve on the Public

Services Committee and the Public Safety Committee. I work with our Municipal Attorney, who is sitting to the right of our Municipal Clerk, and her name is Jean Cipriani. We work together drafting ordinances and resolutions, we check the legality of action the Borough might want to take and obviously we deal with any and all litigation concerning the Borough. My unofficial title is the technology guru. We got the web site going. Hopefully many of you have registered with our Emergency Alert System and you got your letter. If you have any problems at all please contact me directly and I can register for you. We are working on updating the computer system. We updated the phones so we have kind of dragged Bay Head into the Twenty-First century in terms technology which is a good thing because it increases productivity. That is pretty much what I do and anything that is ever asked of me I try to pitch in, it is never ending job.

Councilmember Mary Glass: I am in charge of Public Safety which is the Fire Department and the Police Department. Needless to say we are always busy and we are always active. The Fire Company is coming up to its Centennial One Hundredth Celebration. The Police are always keeping our streets safe, so that is basically what I am in charge of. I am also on other committees.

Councilmember Brian Magory: I am responsible for overseeing zoning, which means if you are looking for a building permit that comes under zoning. Also, construction which means we look at the inspections of the permits that have been issued. I also oversee the garbage and the new garbage contract that we have. Recently we sent out to bid and have selected a new vendor and that is the new people who have been doing it this summer, and also the utilities with Bay Head being small we joined 130 other municipalities to put our utility requirements out to bid and so we try and get the lowest possible price for us and that gave us a little bit more leverage. I am also the Council Representative to the Planning and Zoning Board and I serve there with Mayor. It is a nine member board with three alternates. I also serve on the Public Works Committee and also on the Legal and Planning.

Councilmember Jim Urner: Money in money out.

Mayor Curtis: I hope no one sat on the lapel pins I left on the chairs. It is encouraging to see so many people. I would like to take a second to introduce some of the Borough employees that are here or Borough representatives that are here that head up our various organizations. First is, Patty Applegate our Borough Clerk, Jean has already been introduced and she is our Borough Attorney and she works for Gilmore & Monahan in Toms River. Also in the audience is Laura Tuzzolino who is our Planning Board Secretary and Assistant Borough Clerk; our CFO and Tax Collector, April Yezzi. The person you don't want to get on your wrong side is our Chief of Police, Robbie Hoffman. In the back is the Chief of our Fire Department, Fred Applegate and Tom Gage, President of the B.H.I.A. I would like to remind everyone that there is not one grain of sand on the beach that is owned by the Borough, that is something that most people forget. The B.H.I.A. runs it and it is owned by each individual property owner of which the B.H.I.A. is one, owning

nine street ends and four building size lots. We help and work very closely with the B.H.I.A.

Mayor called for Clerk's Correspondence.

Mrs. Applegate offered a request from Bay Head School Foundation to conduct the annual Duck Derby on Saturday, October 6th from 8 am to 1 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 Unfinished Business. There was none.

Mayor Curtis called for New Business and Resolutions.

Councilmember DeFilippis offered Resolution 2012-99 authorizing the receipt of bids for Roadway Improvements to Lake Avenue, North Street, Western Avenue, and Holly Avenue 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 Barnes offered Resolution 2012-100 awarding a contract to Mark White, Ph.D., P.A. for Police Psychological Testing Services for the Borough of Bay Head Police Department 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 DeFilippis offered Resolution 2012-102 authorizing the execution of a Schedule "C" Agreement with the County of Ocean for 2012 and moved it be adopted. This 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.

Mayor Curtis opened the meeting for Public Discussion.

Dick Martin, 568 East Avenue: Thank you for holding these sessions, it is nice to know even if we don't have a vote we have a voice and it is in that spirit that I would like to make a comment and a request.

I ask that the Council adopt a resolution requiring that all homeowners be notified in writing to their primary home address about any planned construction in the public right of way adjacent to their property. Let me explain my reason for this request. I live on the corner of Chadwick and East Avenue. The street was recently paved and new curbs compliant with ADA were installed. I now know that Council approved the work at a public

meeting and it was mentioned in the Ocean Star. But I was never notified and I was never told that the work would include removing the apron to my driveway, removing the strip of grass and sprinkler heads between my sidewalk and the curb and pouring concrete into the flower bed and on my picked fence. I don't question the Borough legal right to do or the necessity. I understand that the Borough has a right of way from the center of the street well into my yard. But, I do object to the lack of notice. If I had been advised by mail of the plans I could have warned the contractor that the wire for an invisible pet fence runs along the driveway apron. I could have moved the plants along my picked fence. I could have arranged to be here when the work was done. As it is, the plants didn't survive the construction, the pet fence wiring was broken, and in total there was about \$500 in damage to my property. The construction company reimbursed me for these repairs and I understand they will finish up the final repairs in the fall. I have no issue with the people who did the work but I don't think the Borough itself handled this very well. Ironically our streets and curbs in Summit were replaced this year. The City of Summit sent multiple written notices to every home impacted and held a public meeting for the sole purpose of explaining what work would be done and to answer questions. There were no surprises. It seems to me the Borough of Bay Head should meet the same standard. I urge you to pass a resolution requiring written notice to any homeowner likely to be affected by construction in the right of way within their property. It should be sent to the address listed in the tax roles, describe the work to be done, the approximate date on which it is scheduled to start and provide the phone number of someone who can answer questions. Thank you very much.

Mayor Curtis: Mr. Martin, thank you and it is very well taken. You and I have spoken and you have spoken with several other officials on the Council – it is unfortunate that it happened. I can certainly empathize with you and any other member of the four streets that we repaved based on that issue. John, I don't think we have a Resolution at this point for anything that requires us to send a notice – we feel, somehow that we have noticed enough but obviously we did not.

Councilmember DeFilippis: We have spoken about this so I don't think I will say anything that you haven't heard previously. Our bid package when it goes out states that the contractor notify each of the homeowners, specifically what you are asking. It is standard operating procedures. I don't know that a resolution is required.

Mr. Martin: The contractor did put notices in our mailbox. I found them when I arrived here in late May. The problem is I wasn't here from fall to late May. That is not adequate and that is why I feel a

resolution is required for the notice to be sent to the address on the tax roles. My tax notice has no trouble finding me at all. I would like to think the same thing could happen in this case. I understand from a previous Resolution that you are about to do this on several other streets. I would like to venture to guess that a lot of those people don't live here year round and won't receive that notice. I would like to further point out that all the notice said was that we are going to start paving the street the end of March – and then there was another one that said no it will actually be at the end of May. It didn't describe the work that was going to be done, at all, and there was nobody to talk to about what was going to be done or what I could do to avoid any problems.

Councilmember DeFilippis: The notice does list a contact name, phone number and e-mail address.

Mr. Martin: If I had been here in February and seen the notice, I would have had someone to call. I am suggesting that you require yourselves to do what you require homeowners in the Borough to do when there is going to be construction that affects their neighbors.

Mayor Curtis: We will do that.

Adrienne Kissel, 32 Strickland Street: I have the same issue that you did but I happen to come down before the work started. I did get the letter and I did call, but nobody could tell me what was going to happen to my individual property.

Mayor Curtis: Point well taken. I think we get the message.

Chris, 728 East Avenue: Last year's meeting there was talk of making the town landmark status, I was sure as it relates to construction and the conversation basically said you would come back to it next year. Has there been any developments or anything discussed that or what is the current status?

Mayor Curtis: The current status is that it is pretty much dead at the moment to be resurrected, but not right away.

Mr. Chris: Why did it die?

Mayor Curtis: Too many misconceptions and misinformation going around. The report given to us was not what we had expected and it just didn't do what we wanted it to do. So we are going to start over.

Frank Allocca, 22 Howe Street: Mayor we have talked about this issue before. It would be worthwhile if we have some sort of notice as to when this discussion will taking place so we could be involved in it. I feel that we should try and protect the town in the same point as making sure the houses that are built are in keeping with the cottages that we have had all these years but I think beyond that it was going to be a problem.

Councilmember Green: It was very poorly presented and the evening turned into a circus with the intent of talking about preservation and protection of our historic homes and character was completely misunderstood. The committee needs to regroup and there will be presentations over the fall and Mayor I think we plan on going forward and noticing all property owners.

Mr. Allocca: Our family had a home in Spring Lake for 118 years, which we sold just last year. We spent three years trying to find someone to buy the house. We offered it to the town historical society even with a stipend to move it since there was no interest but eventually we had to subdivide the property and the house was torn down. The delay of three years took us from when we could have gotten almost twice as much for the property into the recession – so there are many things that you have to take into consideration before you take on something – I read the report which Wayne McCabe produced and it was quite frightening quite honestly.

Mayor Curtis: Thank you for bringing it up – it is an issue and it is something that all of us want to preserve Bay Head to keep it the way you wanted it when you moved into Bay Head or when your families first moved into Bay Head. We will notify everybody and we want both sides represented at the meeting both pro and con because we will learn something from that. Nothing will be done in January, February or March when nobody is here, I can assure you that.

Sean Novick, 841 Main Avenue: Do you have any information from the State as to when the repaving project will happen on Route 35. I have had some conversations with the State as to what will happen or not happen and some questions whether or not when the paving does occur and the drainage improves if we will be able to expel water from crawl spaces and pools so we are able to get water off our property.

Mayor Curtis: It doesn't just affect your area - if you drove down Route 35 today you would see where there is drainage issues. John has been in touch with the DOT and you know the correspondence I have had with them. I will be meeting with some of them in September and that is one of the subjects I will be discussing.

Councilmember DeFilippis: Route 35 is scheduled to be repaved – the road bed is about 80 years old and nothing has been done since the original construction. So therefore there are a lot of things that have to be done. The schedule was to begin this fall but since an issue has arisen in the last year or so concerning the condition of Barnegat Bay and what has to be done with some of the pollution problems that are in the bay require permits to be issued by DEP. The DOT is ready but they don't have the permits to begin the work which are issued by DEP. We began talking about this particular project in 2003. In the plans if they are approved as they currently design one of the major things that has to take place is new storm water management issues. Additional storm drains will be added to Route 35 and grading will change so water runs off the crown of the road and you won't get puddles like we see every time it rains.

Mr. Sean: As far as being able to send water from our property onto Route 35 – which is a State highway – I am looking into the legality of that. I purchased a home and that was set up that way for years. I just want to make sure that is still something we can do. I just want to make sure as a Bay Head resident I am protected.

Councilmember DeFilippis: What you can do that is still legal is if you can divert that water through some piping to a storm drain.

Mr. Sean: It is an eyesore and a band aid fix – we are currently doing that right now.

Councilmember DeFilippis: You can't pump water onto a State highway. That is a NJ State law and we have no control over that.

Mr. Sean: Unfortunately years ago when I purchased the house, I have permits from Bay Head that stating it could be done. I bought the house with that engineering already taken care of so it is not like anything that I did. I see five or six maybe ten homes pumping onto Route 35 now – does that mean that everyone else is in the same boat and doing it illegally?

Councilmember DeFilippis: Yes.

Mayor Curtis: A couple of them, that I know, have been told that they have to divert it somehow.

Mr. Sean: How would you divert it?

Mayor Curtis: Just the same way you have. It is a big problem. I wrote a letter to every homeowner on Route 35 stating the repaving wasn't going to happen in my lifetime and it took DOT only 24 hours to respond and it wasn't even addressed to them. I told them they should respond as quickly to get the road fixed.

Mr. Sean: Once the repaving and drainage is done properly to the storm drains on Route 35 and there is water that comes from our property from crawl space or pool drainage will that be allowed because it will run down to a storm drain? I am I correct in my statement?

Jean Cipriani: No.

Councilmember DeFilippis: The law is currently written, that doesn't change – you still won't be able to dump water onto Route 35 but must divert it to a storm drain.

Mayor Curtis: The present plans will have a lot more storm drains.

Councilmember DeFilippis: We have 137 properties that abut Main Avenue and most have the same problem you are stating.

Mr. Sean: As a Bay Head resident I want to be somewhat protected, to enjoy this town. We chose this town over many others. At the present time I feel like a caged animal – we don't have the ability to live in our house – and possibly resale could be a problem as well.

Elsbeth Rhody, 184 Grove Street: We have one of the most magnificent Recycling Centers that I have ever seen but I am wondering why we aren't recycling more plastics and paper than we are? I find it very restrictive.

Councilmember DeFilippis: You aren't limited as to how much of that material you bring down to the Recycle Center.

Ms. Rhody: What I mean is you don't take certain types of cardboard, some plastics you don't accept and other places I have lived in do accept it.

Councilmember DeFilippis: We have to find someone who will accept what we have. We are restricted on what we take as to what we can get rid of.

Ellen McCourt, 316 Main Avenue: We were delighted to see a crossing guard at Karge this summer however brief it was. I was wondering if you can retain a crossing guard could we have a crosswalk. We have seen a number on Route 35 going south to Lavallette. Another question has to do with the fire horn – 42 is a fire are there other codes?

Councilmember Glass: There are no codes. There is simply a 4 2 code and that means fire.

Mayor Curtis: We hired a crossing guard this year and she alternates weekends at Karge and Howe. We are looking into another one for next year.

Tom Gage, President of B.H.I.A.: I would like to compliment the Mayor and Council for the crossing guard – we have been talking about the importance of this for a long time.

Dennis Kelly, 668 Main Avenue: What's the possibility of enacting a noise ordinance on Main Avenue – motorcycles and trucks are unbelievable.

Ms. Cipriani: There is no difficulty in passing an ordinance that is a decibel level ordinance as long as you have a place you can identify a single source of noise. If you have a lot of defused noise then decibel meters aren't that effective. They are much more effective with stationary noise than motorcycles and trucks. It is also possible to have a general noise ordinance which is reasonable based – therefore more broadly based.

Councilmember Urner: We have the same problem on the water.

Mr. Kelly: Also overhead – the planes with the advertising signs.

Ms. Cipriani: The existing ordinance as written can be enforced.

Councilmember Urner: By the time you call the police and they arrive the vehicle is long gone.

Chief Hoffman: Motorcycles exhaust mufflers fall under Title 39.

Mr. Allocca: In California, certain towns have signs when you enter that ask to please drive safely and quietly and many bikers would respect that. You might want to consider trying signs.

Ms. Kissel: How do we feel about electronic church bells?

Councilmember Barnes: We actually have that in our code and it is an exception.

Ms. Kissel: On Sundays the bells go for 20 minutes every 45 minutes and with our windows open we can not listen to TV, talk on the phone – I leave my house.

Councilmember Barnes: Read Ordinance 163.3 Exceptions. Nothing herein contained shall be construed to apply to: A. The reasonable use of bells, chimes or sound amplifiers by churches engaged in church activities, subject to the permission of the Mayor and Council.

Ms. Cipriani: You could consider what would be a reasonable restriction.

Ms. Kissel: I would invite anybody to come to my house on Sunday and listen to what we experience. Regular bells would be fine – these are electronic – very loud and not a very pretty sound to me – it is like someone playing a stereo.

Mayor Curtis: You are not the first one or the only one that has brought up that specific church. Maybe we can chat with the new Monsignor.

Ms. Kissel: Neighbors have spoken to him or someone. We all want to be good neighbors.

Ms. Cipriani: You have the right to regulate and request the local parish.

Andrew Frazier, 821 East Avenue: Is there any update on the status of beach renourishment? Secondly is there any change in status with patrols on the beach – I encourage them.

Mayor Curtis: We do periodically patrol them. Chief maybe we should do it once or twice more often. You have people up there at night, do you not?

Chief Hoffman: The patrols at night are checking the street ends. The problem is getting the vehicle on the beach when B.H.I.A. has the boardwalk down on North Street which is our only access to the beach. We put a special up there in the day for the dogs but we can work on that and adjust as you see fit.

Councilmember Green: There is no project in the works for beach renourishment at all. If there is any change we would certainly notify the residents.

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

The meeting was adjourned.

Mayor Curtis: I thank you all for attending. I am always available and I am in office Monday, Tuesday and Friday from 11 am to 2 pm.

Patricia M. Applegate, Municipal
Clerk

William W. Curtis, Mayor