

October 4, 2021

The regular meeting of the Mayor and Council of the Borough of Bay Head was held on October 4, 2021 at 7:00 pm in the Municipal Building, 83 Bridge Avenue, Bay Head, New Jersey.

Mayor Curtis asked everyone to stand and join 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 on the bulletin board at 83 Bridge Avenue on January 7, 2021 and was published in *The Ocean Star* on January 15, 2021 and the *Asbury Park Press* on January 14, 2021.

The roll was called for attendance. Present were Mayor Curtis, Councilmembers Gates, Cornell, Barnes, Shaning, MacPherson, Lyons; Borough Attorney, Jean Cipriani, assistant Robin LaBue, Esq. and Borough Administrator, Frank Pannucci.

Councilmember Lyons moved to approve the regular minutes of September 13, 2021. The motion was seconded by Councilmember Barnes and passed on roll call vote. YEAS: Gates, Cornell, Barnes, Shaning, MacPherson, Lyons. NAYS: None.

Mayor Curtis read the attached Proclamations:

Fire Prevention Week – October 3rd thru 9th
United Nations Day – October 24th

Mayor Curtis called for Committee Reports.

Councilmember Gates, Public Services, read the Construction Official and Code Enforcement report for the month of September. A copy of each report is attached to these minutes.

Councilmember Cornell, Public Works, as usual they are very busy. I hit on the bigger projects last month one of which was Osborne Avenue. The County is working this project and went out to bid. They are hoping to award in the next couple of weeks.

Howe Park will be aerated and seeded.

Just a reminder, the Recycle Center is open Monday thru Friday 7 to 3:15 and Saturday and Sunday 9 to 3. We are short staffed so please keep this in mind when you go.

Bay Head Environmental Commission will meet here next Tuesday. Rick McGoey and the Flood Committee will be presenting their report shortly. We will keep you informed.

The Spotted Lantern Fly has arrived in Bay Head. Please kill them. It is reported a spray of 50% Dawn detergent and 50% water will work.

Councilmember Barnes, Legal and Planning: We worked on the Drone Ordinance and it will be introduced tonight. I would like to thank Jean and Robin for their work on it.

Councilmember Shaning, Public Safety, read the Fire Department report and the Police Report for September. A copy of the report is attached to these minutes.

Councilmember MacPherson, Parks, Grounds and Recreation: The Mayor's Wellness will have a Gratitude Tree by the clock in response to Mental Health.

There will be a Pumpkin Contest on October 30th from 11 to 2 pm. There will be two categories – Painted or Carved. You can register on EventBright. Please stop by the Firehouse and vote.

The Bay Head Business Association will be sponsoring their Annual Halloween Parade on October 31st.

The Bay Head Business Association will be sponsoring their Annual Christmas Walk on Friday, December 3rd.

Next year the Bay Head Recreation program will have events in town for all residents – we are working on that.

The Bay Head School Foundation will be recognizing Rick and Sally McGoey as recipients of the Mitchel Shivers Citizen of the Year on October 15th at the Bay Head Yacht Club. Go to our website for tickets.

Councilmember Lyons, Finance and Technology: The 2020 Audit is available. I am happy to report there were no recommendations and no issues. It will be voted on tonight. If you would like a copy, please contact the Clerk.

Frank Pannucci, Borough Administrator: Everything in an audit is not strictly financial but also the day to day management. This Audit through the Council's hard work is clean from top to bottom.

Mayor Curtis called for Clerk's Correspondence.

Ms. Applegate offered the following requests:

Request from New Logic Education to use Centennial Park for their Marine Science Camp on July 11-14 and August 22-26, 2022

Councilmember Lyons moved to approve the requests which was seconded by Councilmember Barnes and passed on roll call vote. YEAS: Gates, Cornell, Barnes, Shaning, MacPherson, Lyons. NAYS: None.

Mayor Curtis called for Resolutions.

The title of each Resolution was read by the Clerk:

Resolution 2021-131
Governing Body Certification of the Annual Audit

Councilmember Lyons moved the above resolutions be adopted. The motion was seconded by Councilmember Barnes.

Mayor Curtis asked if there were any questions from the public concerning the resolutions presented. There being no questions or comments Mayor Curtis closed the Public discussion.

The motion passed on roll call vote: YEAS: Gates, Cornell, Barnes, Shaning, MacPherson, Lyons. NAYS: None. A copy of each resolution is attached to these minutes.

Mayor Curtis called for Ordinance, First Reading.

Ms. Applegate read Ordinance 2021-16 by title:

AN ORDINANCE OF THE BOROUGH OF BAY HEAD, COUNTY OF OCEAN,
STATE OF NEW JERSEY, CREATING CHAPTER 217 OF THE BOROUGH
CODE OF THE BOROUGH OF BAY HEAD, WHICH SHALL BE ENTITLED
"UNMANNED AIRCRAFT"

Councilmember Lyons: There will be one correction to the ordinance – page 1, par. 2 – change the word geographic to global.

Councilmember Lyons moved this ordinance on first reading, which motion was seconded by Councilmember Barnes.

The motion passed on roll call vote. YEAS: Gates Cornell, Barnes, Shaning, MacPherson, Lyons. NAYS: None. A copy of this ordinance is attached to these minutes.

This ordinance is scheduled for second reading and public hearing on November 1, 2021.

Mayor Curtis called for Unfinished Business, there was none.

Mayor Curtis called for New Business, there was none.

Mayor Curtis opened the meeting to the public.

Ms. Cipriani: This is a general public comment section and you can comment on any topic. Robin is present if you have any questions on the Drone Ordinance because she is the author.

Recently, Executive Session minutes were requested by Mr. Brennan, those minutes were redacted and given to Mr. Brennan. Those minutes were unredacted. A court hearing is scheduled on this matter. Correspondence has been received by Council from Mr. Brennan. Saying that, the Governing Body will not be commenting on those matters at this time. After public session the Governing Body will go into executive session to discuss. Any acquisition of property requires public action. You can stay until they return to the public meeting but there will be no action tonight.

Paul Brennan, 157 Osborne Avenue: Three items. 1. Drone issue - you put a lot of thought into this ordinance and were receptive to my comments and I appreciate that. 2. I would also like to explain the gravity of acquisition. 3. I requested that my letter to be addressed in Clerk's Correspondence but since it was not I will read it into the record. A copy of the letter is attached to these minutes.

Ron Puorro, 159 Osborne Avenue: Mr. Brennan mentioned that our rear yards are flooded by Mr. Burke dumping dirt on that property – this is a problem. It was stated by Councilmember Barnes in an executive session if we acquire the property then the objectors will get their way.

Ms. Cipriani: Again for the record. The Borough executive session minutes we submitted as redacted were then unredacted.

Mr. Puorro: I just wanted everyone to know the council is dead set against the objectors.

Michelle Donato, Esq.: I have been pleased to have matters before this municipality. Working with you on the NJT project to protect Twilight Lake which is the center of your town. That area is one that this municipality has recognized and documented has a habitat which serves an invaluable function of this municipality. Lands that stay there clean the air and water. It is an honor working with Save Barnegat Bay. As you know you can't depend on state agencies to do so. Acquisition of this parcel will not only benefit those on Osborne Avenue but it will benefit your entire town. If it is not, all work done would be for naught. If you get a really good appraisal you can protect the heritage and protect the land. NJT is pushing to do things at NJT. There is a deficit of open space. NJT is in a conservation zone. In 2005 this property was improperly subdivided. Lot 12 was left with no street frontage. I have worked with Save Barnegat Bay to acquire open space and identify critical parcels. I understand you have not used Green Acres Funding. I will enlist support from every organization – this is a fair and just resolve and you will never regret it. I am here to help any way possible.

Ms. Cipriani: Is lot 12 under the same ownership?

Ms. Donato: It is owned by the nephew of Mr. Voorhees.

Ms. Cipriani: The Borough has never taken Green Acres money; therefore, they aren't subject to their requirements.

Ms. Donato: I don't know if the Borough owns vacant land but now is the opportunity. I know people who are very knowledgeable - just think about that piece of property. Do you want to depend on the State or yourselves.

Bretta Forsberg, Executive Director of Save Barnegat Bay: We will lend you support in terms of an acquisition of this property. Save Barnegat Bay Has saved 10's of thousands of properties – the most recently this July in the Borough of Harvey Cedars. We saved wetlands property. We will stand by your side all the way.

Tom Kaelin, 191 Osborne Avenue: At the last meeting I spoke about continuing hybrid meetings along with the in person meetings – has anything been done about hybrid meeting strategy? It would be a great way for the residents to stay in touch. The Borough calendar needs to be updated with the meeting dates. It is my understanding that COVID funds are available to support this request.

Mr. Pannucci: All are excellent suggestions. We are waiting on the Local Finance Notice to proceed.

Esther Koai, 157 Osborne Avenue: I wrote an email and will share part with you today. A copy is attached. We are the victims of Donald Burke.

Ms. Cipriani: Objectors is not in any way an insult. You were listed as such in the lawsuit. The Borough has guidelines it has to follow in acquisition of property. There is case law Essex Fells intervened in a land use matter and purchased property to solve a land use dispute. You can only acquire for environmental reasons not to solve a land use dispute. We can't intervene.

Mr. Brennan: The request is not to intervene. The request is to purchase the property and take it back to the prior 2005 subdivision. The proposal is to preserve the wooded area. Lot 12 is owned by Ralph Voorhees and it backs up to his lot that fronts on Osborne. It was on the market but then pulled off. Mr. Burke likes to play hardball. This site is contaminated. He wasn't authorized to fill his property. This shouldn't cost the Borough anything. It is really a disaster site.

Mr. Puorro: The town has a responsibility to the taxpayers in this town. Saying the objectors will get their way is not right. You need to listen to the options. Once you caltale to a blackmailer he will continue and others will use the same to get what they want.

Ms. Cipriani: The Borough can consider acquisition as per environmental reasons.

Jennifer Hunzinger Kelber: I don't know a ton about wetlands but I would like to conserve the town, lake and bay. As someone who does not live on Osborne, I would like to see the lot preserved.

Ms. Donato: This is fought with great emotion. We ask you to look at this situation with a clean slate. This is something you can do for this town, the environment and flood control.

Sue Shore, 128 Osborne Avenue: I worked to preserve this property. It was forested wetlands and specific species live there. It is not just wetlands but home to endangered species in 2005. I was never approached with this matter but as neighbors on Osborne Avenue we want to protect it. I feel the Planning Board was misguided. The subdivision also stated that trees would be preserved and trees were delineated which was memorialized as a condition. The question is who enforces the resolutions.

Carol Kaschak, 229 Evergreen Drive: I would like to speak about the termination of the hornets nest on Evergreen Drive. They are part of our eco system – they should be left to run their course and not taken down. They take care of ticks, flies and are a food source for the birds. If they are not a threat just let them be.

There being no further comments the public discussion was closed.

Councilmember Lyons moved to approve the vouchers for payment. The motion was seconded by Councilmember Barnes and passed on roll call vote. YEAS: Gates, Cornell, Barnes, Shaning, MacPherson, Lyons. NAYS: None. A list of vouchers is attached to these minutes.

Councilmember Lyons offered the following Resolution to go into Executive Session.

RESOLUTION OF THE BOROUGH OF BAY HEAD, COUNTY OF OCEAN,
STATE OF NEW JERSEY EXCLUDING THE GENERAL PUBLIC FROM A
MEETING PURSUANT TO THE OPEN PUBLIC MEETINGS ACT

WHEREAS, the Open Public Meetings Act, N.J.S.A. 10:4-12, permits the exclusion of the public from a meeting in certain circumstances; and

WHEREAS, this public body is of the opinion that such circumstances presently exist.

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Bay Head, in the County of Ocean, State of New Jersey, as follows:

1. The public shall be excluded from discussion of an actions upon the hereinafter specified subject matter.
2. The following subject involve:
Acquisition of Land, Pending Litigation, Personnel
3. It is anticipated at this time the above stated subject matter will be made public in 90 days.
4. This Resolution shall become effective immediately.

The motion was seconded by Councilmember Barnes and passed on roll call vote: Gates, Cornell, Barnes, Shaning, MacPherson, Lyons. NAYS: None.

The Governing Body went into Executive Session at 8:22 pm. At 9:26 pm they came out of Executive session and resumed the meeting.

There being no further business, Councilmember Lyons moved the meeting be adjourned. The motion was seconded by Councilmember Barnes and passed on roll call vote. YEAS: Gates, Cornell, Barnes, Shaning, MacPherson, Lyons. NAYS: None.

Patricia M. Applegate, Municipal Clerk

William W. Curtis, Mayor