

February 1, 2021

The regular meeting of the Mayor and Council of the Borough of Bay Head was conducted on February 1, 2021 at 7:00 pm using the GoToMeeting platform.

Mayor Curtis called the meeting to order and welcomed everyone.

Tonight, we will attempt to go through the meeting as usual. There are three public comment sessions scheduled as part of this meeting. One for the 1<sup>st</sup> CDBG hearing, one for resolutions, and one during the public discussion portion of the meeting. At the appropriate time, I will open the floor to public comment. If a member of the public wishes to comment they must state their name. I will recognize each person separately and relinquish the floor to that person. Once I have relinquished the floor, the person who wishes to comment must once again state their name and provide their address for the record. I will continue this process until all comments are heard. I will then close the floor to public comment and move to the next item on the agenda.

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 Administrator, Christopher Parlow and Borough Attorney, Jean Cipriani.

Councilmember Lyons moved to approve the regular minutes of January 4, 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 appointed Verity Frizzel as Alternate #2 to the Bay Head Planning Board for a two-year term.

Mayor Curtis: This item isn't on the agenda but I would like to open the meeting up to anyone who has any comments or questions concerning the proposed Cell Tower in Bay Head. Both consultants are on so they can answer any questions you have.

Mark Durham, 520 Lake Avenue: Are we moving ahead with the temporary tower location?

Mayor Curtis: Yes, we are moving ahead. The Bay Head Fire Company is in the process of negotiating a contract to put the temporary facility on their property.

Mr. Durham: Will it be self-contained?

Mr. O'Scanlon: It will be a temporary structure, anchored with ballast. There will be no foundation.

Mr. Durham: Once it is up and running, will the existing water tower be dismantled?

Mr. O'Scanlon: That will be up to New Jersey American Water Company, they have their own timetable.

Walter Goetick, 229 Park Avenue: I would like to say Mayor that we have been talking with you concerning the permanent location.

There being no further comments or questions Mayor closed the discussion.

Mayor Curtis: I would like to thank council and the public for giving me the opportunity to allow anyone to address their questions to our consultants.

Mayor Curtis: I will now turn to Chris Parlow, Borough Administrator for a public hearing on our CDBG 2021 application.

Mr. Parlow: Ocean County has a two-year cycle on applications for grants concerning CDBG. Bay Head is limited on projects they can apply for and in the past they mostly been for improvements to provide handicapped accessibility around town at street corners and at the beach. We usually receive between 30 and 35 thousand to do these types of projects. The process requires two public hearings. Our engineer has provided three different locations for submission:

Location #1 – Club Drive (at Howe Park Field Crossing)

Location #2 - Meadow Avenue (West Lake Avenue Intersection & Library)

Location #3 - Park and Bay Avenue Intersection

Mayor Curtis opened the discussion to the public. There were no comments or questions so the public hearing was closed. The second public hearing will be held at the next council meeting on Monday, March 1<sup>st</sup>.

Mayor Curtis called for Committee Reports.

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

Councilmember Cornell, Public Works: The Public Works Report for the month of January is posted for your review. They were very busy plowing last night and continuing today to keep the streets clear. If you don't have your sticker for the recycle center don't panic. They are working on it and they will place the stickers on your car. A resolution is being offered tonight to work on the sewer system. Please check to make sure your sump pump is not connected to the sewer system. It is illegal to do so. The sweeper has a broken part that is on order so as soon as it is fixed they will be out again. The Strickland Street Pump Station has

been repaired and is in working order. A copy of the report is attached to these minutes.

Councilmember Barnes, Legal and Planning: We are discussing revisions to various ordinances. Section 209-7 routing of traffic during road work projects will be introduced at the March 1 meeting. The sign ordinance is still being reviewed, believe it or not there are 1<sup>st</sup> amendment issues. Tonight, an ordinance will be introduced updating Stormwater Management and I would like to thank Chris for all his work on this. We continue to work on the noise ordinance. Point Pleasant is in the process of revamping theirs so I am taking a backseat to see how they make out. Also being introduced tonight is an amendment to our dune ordinance. Chris would you like to explain?

Mr. Parlow: The Beach and Dune Ordinance has been modified by the committee. The current section on walkways and pathways allow paths from the west side to the beach. It didn't allow anyone the ability to have a path only to the dune platform. This amendment will change that, allowing a walkway to the platform only. The other change is in the dune permit process. The current ordinance requires a survey to be submitted. No one has an updated survey with the new dune in place. We received negative feedback on this so we changed it to just require a sketch as to where the platform would be placed.

Councilmember Shaning, Public Safety: I would like to welcome Glen Brown the new Chief to the Bay Head Fire Department and also thank Joe Todisco for his service. He read the Bay Head Fire Department report for the month of January and the Reminder to Residents:

The fire company is responding to calls with masks on. If members of the general public are unable or unwilling to wear a mask during interactions, please remain 6 feet from our members in order to limit the possibility of spreading Covid-19 to one of our responding members.

He also read the Bay Head Police Activity Report for the month of January. A copy of both reports are attached to these minutes. On January 28, 2021 there was a vehicle stole in front of Burke's Market and found abandon in Newark. The vehicle was left running. Chief asks all residents to realize how fast these incidents can happen. Do not leave you vehicle running and unlocked.

Councilmember MacPherson, Parks, Grounds and Recreation: We are trying to organize BH Beautification and working on a schedule with Public Works.

Bay Head Life is looking for volunteers. We are looking forward to a good year.

We are working trying to get everything in place for our Summer Recreation Program. Hopefully it can be held this year.

Councilmember Lyons, Finance: IT has successfully migrated to the new alert system Code Red. It is up as of today. Chris Parlow is familiar with the program and council will be given training.

Finance side is working with our CFO and are having to really sharpen the pencil – it going to be a tough budget year. We are looking at places to cut. The Governor still hasn't introduced his budget so we don't know what State Aid we

will get. We usually get around \$170,000. It will really be tough if we don't get that. I will keep you informed. A couple of resolutions will be offered tonight – 2021-39 is for budget transfers – this allows transfers from one line item to another and can only be done the last three months of the year ending and the first two months in the new year. 2021-53 is for temporary emergency appropriation #1 and lastly 2021-50 for a temporary capital budget which is normal part of the adopted budget but we received some grant money, so this will allow us to spend it.

Chris Parlow, Borough Administrator:

1. Resolution 2021-46 will approve a Professional Services agreement with O'Donnell Stanton 7 Associates to provide a Sewer System Evaluation Survey-Phase II. Last year we started on Phase I. We are analyzing the system because we have seen the amount of sewage flow skyrocket. Normal average flow would be 100 to 110 million gallons for treatment but the last couple of years we have had 125 to 130 million gallons and paying for this is very significant. Phase I study came up with sources of flow that are not associated with raw sewage. Those flows are basically ground water that doesn't need to be treated. Based on the report an estimate of 75% that is being treated is associated with inflow and infiltration. Phase II is to actually clean the system which should be done periodically. In the past it has been done but only as a spot repair. The next part is to TV those locations and identify the source of the infiltration. Teri coda pipe which is clay pipe put together in sections was used when the sewer system was installed because raw sewage went out to the ocean back then. This pipe allows infiltration as well as manhole covers which have a chamber that may leak. Phase II will identify if these issues exist. Then comes the tough part – repairs can be made using a sleeve but if they are damaged to a certain degree they will have to be replaced. It will be a costly process but there are grants and loan programs out there that we will be looking at. More than likely some is coming from the homeowner side. Sump pumps should not be connected to the sanitary sewer system. Contact my office if you find you have a pump connected – it needs to be changed out.
2. Resolution 2021-52 will authorize Master Consulting to perform Community Rating System Program Assistance. We are in the verification cycle with FEMA and they chose 70 random elevations certificates which are prepared by a licensed surveyor. As part of the CRS Program to stay in good standing we must score 90% or higher with elevation certificates in the audit. There are also a number of activities the Borough does to get points which give you discounts on your flood insurance. Last week I received notice that 41% of the 70 elevations certificates were in error. They audited certificates from 2014 to 2019 the post Sandy time period. The errors were to very simple to more difficult ones that only the surveyor can correct. A lot is required for them to be redone or corrected. We have until March 1<sup>st</sup> to get this done. They are also requiring us to review the next 70 to make sure they are accurate. At this point in time Maser is coming in as a consultant who are well versed and will help to make these corrections. Without these corrections anyone who has a flood insurance policy could lose their discount. I would say it could be a collective savings of \$200,000.00 for all

residents. I am asking today for Council to approve the resolution to allow Maser to assist the Borough.

Ms. Cipriani, Attorney had no comments.

Mayor Curtis called for Resolutions.

The title of each resolution was read by the Clerk.

Resolution 2021-39

Authorizing the Transfer of Appropriations in the Calendar Year 2020 Budget

Resolution 2021-40

Authorizing the Bay Head Police Department to Participate in the Defense Logistics Agency, Law Enforcement Support Office, 1033 Program to enable the Bay Head Police Department to Request and Acquire Excess Department of Defense Equipment

Resolution 2021-41

Awarding Peddler's License for the Year 2021

Resolution 2021-42

Authorizing the Execution of a Shared Services Agreement with the County of Ocean for the Prosecutor's Program

Resolution 2021-43

Authorizing the Execution of a Shared Services Agreement with the County of Ocean for "Move Over" Law Enforcement Program

Resolution 2021-44

Authorizing the Execution of a Schedule "C" Agreement with the County of Ocean Road Department

Resolution 2021-45

Authorizing the Sale of Surplus Property no longer needed for Public Use VIA Internet Auction Website

Resolution 2021-46

Awarding a Professional Engineering Services Contract to O'Donnell Stanton & Associates to provide a Sewer System Evaluation Survey – Phase II of the Bay Head Sanitary Sewer Collection System

Resolution 2021-47

Authorizing the Implementation of Emergency Siting Procedures for the Installation and Operation of a Temporary Wireless Communications Tower and Appurtenances on Bay Head Fire Company Property

Resolution 2021-48

Awarding a Professional Engineering Services Contract to O'Donnell Stanton & Associates to provide Surveying and Engineering Design, Bidding, Construction and Inspection Services for the Lake Avenue Improvement Project (Between Bridge Avenue and Osborne Avenue)

Resolution 2021-49

Authorizing the Purchase of a 2021 Ford Explorer for the Bay Head Police Department from Winner Ford under State Contract

Resolution 2021-50

Adopt 2021 Temporary Capital Budget

Resolution 2021-51

Awarding a Contract to APCO Paving Co., Inc. for the Bayberry Lane, Egbert Street & Club Drive Road Improvements (\$138,392.33 Base Bid +Alternate 1)

Resolution 2021-52

Authorizing Maser Consulting, P.A. to perform Community Rating System Program Assistance for the Borough of Bay Head

Resolution 2021-53

Adopting 2021 Temporary Emergency Appropriations #1

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.

Shannon Curtis, 1500 Bay Avenue: It is going to cost \$17,000 to fix the elevation certificates.

Mr. Parlow: Yes – some require changes that we can make and others require the change to be done by the surveyor. They need to be in compliance with the flood map standards.

Ms. Curtis: Why or who is responsible when they were filed?

Mr. Parlow: I can't comment why – I do know the shore towns were in a rush to get people back in their homes.

Paul Brennan, 157 Osborne Avenue: I have the same concerns as Ms. Curtis. It makes no sense to me. 70 certificates are pulled and 40% need to be corrected. You also have to pull another random 70 to see if they comply. So an independent surveyor made these mistakes.

Mr. Parlow: There is a check list of 20 to 30 types of errors. Some are correctable by the Borough but Section C only can be corrected by the surveyor. FEMA is

requiring the Borough to get it right. We will have to go back and contact the surveyors. As to how and why – I am not going to comment, I wasn't there. We will have to look at every single one. Maser and I will work hand in hand to have them corrected. Maser has submitted as estimate that will not exceed – the goal is to have them come in less than that.

Councilmember Lyons: The cost, if not corrected, adds up to hundreds or thousands of dollars for the residents. We need to fix it.

Mark Durham, 520 Lake Avenue: This correction to be in total compliance is up to the surveyor, will they be liable to the property owners who contracted for these certificates?

Ms. Cipriani: The Borough is not liable. The homeowner contracted with their surveyor.

Rick McGoey, 50 Harris Street: It sounds like \$17,000 to Maser is a deal and well spent funds. What role does the homeowner have? I would certainly like to know about it and their responsibility.

Mr. Parlow: It depends on the nature of the error. It could be flood vent size, or other noncompliance issues. So there will be some contact with property owners.

Mr. McGoey: As a homeowner, I would like to be aware of it.

Mr. Brennan: If there are errors in Section C – can't they be sent to them and get corrected?

Mr. Parlow: I can tell you it usually takes a number of contacts with the surveyors to get them to correct after they have received a CO. It is going to take some effort.

Mayor Curtis: There being no further comments or questions the public comment period is closed.

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 2021-01 by title:

AN ORDINANCE OF THE BOROUGH OF BAY HEAD, COUNTY OF OCEAN, NEW JERSEY PROVIDING FOR THE ACQUISITION OF A LOADER IN THE AMOUNT OF \$115,000 AND PROVIDING FOR THE ISSUANCE OF \$109,250 IN BONDS OR NOTES OF THE BOROUGH OF BAY HEAD TO FINANCE THE SAME

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 March 1, 2021.

Ms. Applegate read Ordinance 2021-02 by title:

AN ORDINANCE OF THE BOROUGH OF BAY HEAD, COUNTY OF OCEAN, STATE OF NEW JERSEY, AMENDING AND SUPPLEMENTING ARTICLE II OF CHAPTER 75 OF THE BOROUGH CODE OF THE BOROUGH OF BAY HEAD, ENTITLED "PROTECTION OF BEACHES AND DUNES"

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 April 5, 2021.

Ms. Applegate read Ordinance 2021-03 by title:

AN ORDINANCE OF THE BOROUGH OF BAY HEAD, COUNTY OF OCEAN, STATE OF NEW JERSEY, AMENDING 207 OF THE BOROUGH CODE OF THE BOROUGH OF BAY HEAD, ENTITLED "STORMWATER MANAGEMENT"

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 April 5, 2021.

Ms. Applegate read Ordinance 2021-04 by title:

AN ORDINANCE OF THE BOROUGH OF BAY HEAD, COUNTY OF OCEAN, NEW JERSEY, PROVIDING FOR THE RECONSTRUCTION OF LAKE AVENUE AND MAPLE DRIVE IN THE BOROUGH OF BAY HEAD AND APPROPRIATING \$260,000 THEREFORE AND PROVIDING FOR THE ISSUANCE OF \$63,800 IN BONDS OR NOTES OF THE BOROUGH OF BAY HEAD TO FINANCE THE SAME

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 March 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.

Peter Doane, 325 Lake Avenue: Last year I brought up placing a bench at the top of the dune. The town has spent money on the baseball field and it wouldn't take anywhere near that amount to place a bench on each walkover. As far as a new construction – I had to pay a percentage for Affordable Housing Fee. I paid it but shortly thereafter it was stopped. There are a number of new houses being constructed are they required to pay that fee?

Ms. Cipriani: At this time that fee is not being assessed.

Mr. Doane: I asked about getting my fee back. I received a letter that the Burke's can't build because of the action of the neighbors.

Ms. Cipriani: Send me an email with specifics and I will take a look at it. The Governing Body can't discuss the Burke matter because it is still a Planning Board matter – litigation.

Paul Brennan: To touch on Mr. Doane's comments. I am happy to talk to you about it and tell you the truth. Councilmember MacPherson, why did you not disclose your personal relationship with Katlin Burke, she babysat your children?

Ms. Cipriani: This is still an ongoing litigation. I understand an appeal will be filed so I would advise Councilmember MacPherson not to answer.

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:  
PBA Contract and Litigation-Burke
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: YEAS: Gates, Cornell, Barnes, Shaning, MacPherson, Lyons. NAYS: None.

The time for the public to rejoin the meeting was discussed, deciding to have the public rejoin at 9:15 pm.

The Governing Body went into Executive Session at 8:45 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.

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Patricia M. Applegate, Municipal Clerk

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William W. Curtis, Mayor