

**BOROUGH OF BRADLEY BEACH
COUNCIL BUSINESS MEETING MINUTES
AUGUST 28, 2024 AT 6:30 P.M.**

A Meeting of the Mayor and Council of the Borough of Bradley Beach was held in the Meeting Room, 701 Main Street, Bradley Beach, New Jersey on the above date and time.

IN ACCORDANCE WITH THE PROVISIONS OF THE OPEN PUBLIC MEETINGS ACT, PUBLIC MEETINGS MAY BE HELD IN PERSON OR BY MEANS OF COMMUNICATION EQUIPMENT TO INCLUDE STREAMING SERVICES AND OTHER ONLINE MEETING PLATFORMS (N.J.S.A. 10:4-8b).

THIS MEETING WAS HELD IN-PERSON AND THROUGH THE ZOOM MEETING PLATFORM, BEING BROADCAST FROM BOROUGH HALL, 701 MAIN STREET, BRADLEY BEACH, NJ 07720. PUBLIC PARTICIPATION FOR THIS COUNCIL BUSINESS MEETING OF AUGUST 28, 2024 WAS AVAILABLE IN PERSON OR THROUGH THE ZOOM LINK POSTED TO THE WEBSITE. THE COUNCIL MEETINGS (RESOLUTION 2023-289 ADOPTED DECEMBER 6, 2023) FOR CALENDAR YEAR 2024 WAS ADVERTISED IN THE NEW COASTER, THE COAST STAR, AND THE ASBURY PARK PRESS ON DECEMBER 14, 2023.

WITH ADEQUATE NOTICE HAVING BEEN GIVEN, THE MUNICIPAL CLERK IS DIRECTED TO INCLUDE THIS STATEMENT IN THE MINUTES OF THIS MEETING.

CALL TO ORDER

Mayor Fox opened the meeting with a salute to the flag.

The Sunshine Law was read.

ROLL CALL AT 6:30 P.M.

Present at the August 28, 2024 Council Business Meeting:

**Governing Body Members: DeNoble, Gubitosi, Mahoney, Weber, Mayor Fox (via Zoom)
Municipal Clerk, Erica Kostyz
Borough Attorney, Gregory Cannon
Michele Whille, Deputy Municipal Clerk, Zoom Facilitator
Police Chief, James Arnold**

WORKSHOP(S): None

PRESENTATIONS: None

MINUTES APPROVAL

ON MOTION by Fox/DeNoble to approve the Council Meeting Minutes of July 24, 2024.

ROLL CALL:

AYES: DeNoble, Gubitosi, Mahoney, Weber, Mayor Fox
NAYS: None
ABSENT: None
ABSTAIN: None

APPROVED

ON MOTION by Fox/DeNoble to approve the Executive Session Minutes of July 24, 2024

ROLL CALL:

AYES: DeNoble, Gubitosi, Mahoney, Weber
NAYS: None
ABSENT: None
ABSTAIN: None

APPROVED

Mayor Fox made a motion to move and vote on Resolution 2024-86 Budget Introduction, seconded by Councilwoman DeNoble.

Councilman Gubitosi stated he was fine with moving this up on the agenda, but not before public comments on the agenda items.

ROLL CALL:

AYES: Gubitosi, Mayor Fox
NAYS: DeNoble, Mahoney, Weber
ABSENT: None
ABSTAIN: None

Public Comments on Agenda Items:

In Person:

Shana Greenblatt-Janoff, 414 Monmouth Avenue, inquired if there has been any meaningful collaboration between Council and the Administration pertaining to the budget.

All council members stated there has not been any progress with responses to questions that were asked.

Nancy Meadow, 805 Beach Avenue, voiced complaints and inquiries pertaining to the bill list.

Thomas J. Coan, 612 Third Avenue, complimented the Council on Resolution 2024-168, requested Council not adopt resolution 2024-86, and expressed concerns about the 2023 AFS and Audit not being completed to date.

Mayor Fox stated 2023 AFS was filed by the CFO earlier this week.

Julie Nutaitis, 605 Newark Avenue, asked why the Council cannot have access to CFO.

Mayor Fox responded the CFO would prefer to meet with Council in an open forum and not privately.

Mea Molin, 302 Fourth Avenue, inquired when the Council will be notified about the 2023 AFS Statement and inquired why the Business Administrator is not attending meetings.

Mayor Fox stated he would ask the CFO to forward the AFS to Council this week and stated the BA is not required to attend meetings.

Ms. Molin inquired if the Council has received an answer regarding a budget discrepancy from June.

Mayor Fox addressed this inquiry.

Mary Backstrom, 218 Fourth Avenue, expressed concerns the CFO has not conversed with the Council and the BA is not attending meetings.

Ms. Backstrom inquired how much taxes will be increased.

Mayor Fox responded 3.39%.

Brigitte McGuire, 610 Brinley Avenue, urged the Council to turn down the budget introduction this evening and inquired if Mr. Fehrenbach prepared the budget.

Mayor Fox responded no and stated Mr. Fehrenbach was on the team. The budget was prepared by himself, the CFO, the Administrator, Mr. Fehrenbach, and Assistant CFO.

Discussion ensued about the Assistant CFO and the Council and public not being aware of this position or when this employee was promoted to this title.

Cindy Lukenda, 218 Fourth Avenue, inquired about the Assistant CFO responsibilities.

Zoom: None

ON MOTION by Fox/Gubitosi to move Resolution 2024-86.

ROLL CALL:

AYES: Gubitosi, Mahoney, Weber, Mayor Fox

NAYS: DeNoble

ABSENT: None

ABSTAIN: None

2024-86 Introduction of the 2024 Municipal Budget to be read by title only.

Councilman Gubitosi asked Mayor Fox numerous questions about the expected time frame for delivery of the 2023 Audit report. Mayor Fox responded that he was not certain of the delivery timing but committed to following-up with the Auditor to get a reasonable estimate of timing. Councilman Gubitosi asked Mayor Fox if he was subject to the DCA fines imposed on other Council members. Mayor Fox stated he was not fined, because he voted in favor of budget introduction.

Councilman Gubitosi continued with the following prepared statement:

I am very disappointed to report that the Commissioner of the Department of Community Affairs, Ms. Jacquelyn Suarez, has decided to impose a \$25.00 per day fine on members of this Council, who are working diligently to represent our residents. I do not know if the daily fine includes weekend days or not, but the amount of this fine, through today, is \$1,000.00 per Council person.

On July 18th I wrote a letter to Ms. Suarez, detailing:

- 1. Horrible financial mismanagement by Mayor Fox’s Administration over the past two years, contributing to this Council’s distrust of the current budget process. This financial mismanagement resulted in:**
 - a. The historically LARGE loss of \$1.6 million in our surplus over two years - a surplus that was built up over 30 years!**
 - b. A historically high 2023 tax rate increase, which was still inadequate to cover this administration’s spending, so we had to dip into our surplus again.**
 - c. A 2022 Audit report, which was delivered in 2024, documented the Borough’s financial mismanagement and lack of financial controls.**
 - d. A grossly in error filing of our Annual Financial Statement for 2022 with the DC in which we reported \$7 million in cash on hand at year end, when in fact we only had \$4 million on hand at the end of 2022 (this is NOT a rounding error!)**
 - e. An email from our new CFO to Mayor Fox, documenting his findings this year that “the financial records for 2023 have been “problematic” and noting many concerns that he is still attempting to correct in the 2023 data.**
 - f. And now we know that the Borough’s Auditor has not yet been able to begin the 2023 Audit because our 2023 Financial records are still being finalized - as of six days ago.**
- 2. I also made great effort to explain the lack of cooperation by Mayor Fox, since March of this year, including:**
 - a. Refusing to allow the Council to speak with the CFO or with our Department Heads**
 - b. Documentation of statements made by the Mayor’s Administration suggesting that we could not access the CFO for fear that he would be “harassed” by all four members of this Council - each one of us was named in an email from the Administration.**
 - c. Documentation of examples of the non-sensical “answers” provided to this Council when the Mayor’s “Team” responded to our questions.**

On August 23rd, just last week, Ms. Suarez sent each Council member except the Mayor a personalized letter informing us of the implementation of the fine, retroactive to July 19th. She dismissed my letter of July 18th, stating that my letter “attempts to justify the Council’s failure to approve an introduced budget by stating that, despite the Chief Municipal Finance Officer (CMFO) making a budget presentation to Council on April 10th and the Council having been provided various financial information.”

Unfortunately, Ms. Suarez is clearly implying that she has decided to accept the Mayor’s explanations over those of this Council without making any effort to fact-check the two opposing perspectives.

Ms. Suarez acknowledges the concerns that I raised about our unreliable financial data and yet she decides that the Council must blindly approve this budget for introduction. She acknowledges that my letter: “also cites the Borough’s CY 2022 Audit comments and prior failure to maintain adequate financial records” and that “It is the Division’s understanding that the current CMFO has been working diligently to institute proper internal controls and bring the Borough’s financial records into order.”

She is acknowledging that I told her that our internal financial structure is chaos. We are being given a budget created out of this chaos, and yet, through financial intimidation she is forcing duly elected officials to blindly rely upon these same financial records, in order to approve a budget for the public.

I respect the role of the DCA, and I believe that it must be very difficult to evaluate each challenge that comes before them. I am sure that Ms. Suarez is a very talented Commissioner, however, in this one instance, she is simply wrong. It is wrong to implement sanctions against the very Council, people who are working long hours to honor our sworn oaths to represent and protect the public, to the very best of our abilities.

What is even more ironic, I have confirmed that Mayor Fox, who needs Council approval and yet refuses to cooperate with any of the Council’s requests, is not subject to this daily fine.

Ladies and gentlemen, this is a prime example of “Bureaucratic Failure” in the State of New Jersey.

Now, with regard to the vote to introduce the Mayor’s 2024 Proposed Budget tonight, I remind the public that the Mayor has promised to make our CFO available to answer the Council’s questions, but only at Budget Adoption. Budget Adoption is in thirty days and should the Council vote tonight to introduce this budget, we will have an opportunity thirty days from now to ask the CFO all of the questions, in front of the public, that we have been asking for four months and hopefully get responses. I have said this from the beginning, I do not know if the budget is right or wrong because I am not getting answers. So, the CFO may answer our questions thirty days from now, and if he does, it may be as simple as saying “Thank you for those answers” finally. Why did we wait four months? On the other hand, there may be questions that the CFO does not know the answer to, and we may have to wait longer. Or, we may have waited thirty days and then we may have to vote no at the adoption. So, the chaos and the insanity continue. I am willing to vote for this introduction tonight only to move us off the mark. The financial penalties imposed upon this Council represent a terrible injustice imposed upon us by the Commissioner of the DCA. She did not look at the facts and I do not believe it is in any way appropriate to be fining the Council. The only value in supporting this introduction is to finally get us all off the mark, including the Mayor, and finally get answers from the CFO.

Councilwoman Mahoney gave the following prepared statement:

I mentioned last week, the numbers for our budget continue to change. The Mayor has stated the Current fund, after the CFO made a slight change, was adjusted by only \$240.00, not over \$70K. However, the numbers clearly show otherwise.

We are relegated to using two pdfs as our backup information, one of them is eighty-two pages. Yesterday I asked for the three different State PDF forms to be sent to me, and well over twenty-four hours later, I received no response. All I wanted was an email with three documents, I requested this from the Mayor, BA, Mr. Fehrenbach, and our CFO. No one responded.

On Friday August 23rd the DCA imposed a fine on this Council of \$25.00 a day for the failure to introduce the budget for the Borough of Bradley Beach. In the letter I received it stated, “The Borough Council has an Obligation to Act on the Municipal Budget with the information available to it.”

And in that one statement, there is the catch. With the information available to it. Unfortunately, there are no guidelines provided as to what good, useful, and ordinary information a Council should receive when making decisions and amendments to annual budgets. Instead, a Council is held hostage to the Administration and the information it chooses to provide or withhold. When numbers become moving targets, questions go unanswered or answers are evasive, I wonder to what lengths a Council should go to protect the public they serve? In this case, it is to the length of incurring a fine each of almost \$1,000.00.

Council members are asked to rely on their professionals for their guidance, however, they are elected or appointed for their own acumen, prudence, and interest in serving the public. When Council members are denied access to the very professionals they themselves have hired, it is no wonder things can become such a cluster.

I am shocked by the DCA’s decision knowing that this Council has found getting answers and numbers for this budget akin to nailing Jello to a wall. That our access to our professionals has been limited to a volunteer. That we have not received one email with answers or explanations, not one, from the CFO we hired.

I would suggest the DCA endeavor to set guidelines set by those towns who are paradigms of success and put in place a set of required documents for review for Council in order to make informed decision on the budget. I would suggest penalties for administrations who cannot prove they have started the budget process early and who do not introduce the budget on time.

As I stated previously, the information we have received has dwindled from spreadsheets we can manipulate and do simple math with, to just two pdf documents. One is eighty-two pages and all along, the numbers have changed.

If the DCA would like to fine this very conscientious Council for doing its best in the name of transparency, then so be it. I would suggest the DCA needs to revise its guidelines on what is expected from an administration made up of professionals paid to give us answers before it imposes fines regarding what is expected from the people who volunteer to serve the people.

Councilwoman DeNoble requested if the budget gets introduced, having a workshop between now and the adoption to which Mayor Fox declined. Ms. DeNoble expressed her disappointment with the way this budget is being done.

ON MOTION by Fox/Gubitosi to adopt Resolution 2024-86

ROLL CALL:

**AYES: Gubitosi, Mahoney, Weber, Mayor Fox
NAYS: DeNoble
ABSENT: None
ABSTAIN: None**

ADOPTED

ORDINANCES: None for introduction or adoption

COMMUNICATIONS : None

CONSENT AGENDA RESOLUTIONS:

2024-164 Bill List for August 28, 2024

2024-165 Approval for the Special Olympics New Jersey to conduct their 5K Race for Saturday, November 16, 2024 from 10:30 a.m. to 12:00 p.m. (Pass through run only).

2024-166 Approval for the Bradley Food Pantry, Inc. to conduct an On-Premises 50/50 Cash Raffle for Thursday, October 17, 2024 from 6:00 p.m. to 9:00 p.m.

2024-167 Approval of an Off-Premises Raffle License 2024-12 for St. Teresa of Calcutta Parish.

Councilman Weber requested Resolution 2024-164 be voted on separately due to bill list inquiries.

ON MOTION by Fox/Weber to vote on Resolution 2024-164 separately.

ROLL CALL:

AYES: DeNoble, Gubitosi, Mahoney, Weber, Mayor Fox

NAYS: None

ABSENT: None

ABSTAIN: None

Intense discussion ensued between Councilman Weber and Mayor Fox pertaining to several items on the Bill List.

Councilman Gubitosi stated he is in support of continuing education for employees providing it is in relation to their job duties.

ON MOTION by Fox/Gubitosi to adopt Resolution 2024-164.

ROLL CALL:

AYES: DeNoble, Gubitosi, Mahoney, Mayor Fox

NAYS: Weber

ABSENT: None

ABSTAIN: None

ADOPTED

ON MOTION by Fox/Gubitosi to adopt the remainder of the Consent Agenda Resolutions.

ROLL CALL:

AYES: DeNoble, Gubitosi, Mahoney, Weber, Mayor Fox

NAYS: None

ABSENT: None

ABSTAIN: None

ADOPTED

INDIVIDUAL RESOLUTIONS:

2024-168 Sylvan Lake Restoration Team Support.

ON MOTION by Fox/Gubitosi to adopt Resolution 2024-168.

ROLL CALL:

AYES: DeNoble, Gubitosi, Weber, Mahoney, Mayor Fox

NAYS: None

ABSENT: None

ABSTAIN: None

ADOPTED

2024-169 Adopting the Report and Findings of the Borough's Conflict Attorney regarding an appeal of the Fire Company's Member disciplinary decision dated March 6, 2024, and adopting the recommended decision contained therein.

ON MOTION by Fox/Gubitosi to adopt Resolution 2024-169

ROLL CALL:

AYES: DeNoble, Gubitosi, Mahoney, Weber, Mayor Fox

NAYS: None

ABSENT: None

ABSTAIN: None

ADOPTED

ANNOUNCEMENTS: None

Mayor Fox left the meeting at 7:45 p.m.

MAYOR AND COUNCIL REPORTS:

Councilwoman Mahoney:

Reported the Land Use Board met on August 15th and the Environmental Committee will meet on September 9th.

Councilman Weber:

- Congratulated the Charter Study Commission Candidates to appear on the November Election Ballot.
- Announced VIPLY is no longer utilized to purchase beach badges.
- Stated the previous Borough Administrators attended Council Meetings.
- Gave the Fire Department and First Aid Squad monthly activity reports.

Councilman Gubitosi:

Police Liaison Report:

The Police report will be delivered at the next Council meeting.

Sylvan Lake Liaison Report:

As many of you witnessed, we passed a Resolution in support of the “Restoration Team” that has been working on Sylvan Lake planning and securing grant funding, for over four years. Last week, in the Commission’s August 21st meeting, the Lake Restoration Team members Captain Al Modjeski, Marty McHugh, and Jim Shissias attended along with our Borough Engineer Bennett Matlack from CME to discuss the great progress being made to involve various private, State and Federal agencies to continue to secure funding. Also discussed were immediate next steps in which the Restoration Team will begin to spend close to \$100,000 of REPI Grant Funding they have already secured to conduct water quality testing and begin Engineering Surveys and design. This Team and CME pledged to work together to make sure that the repairs that Bradley designs for our deteriorated bulkhead are aligned with the overall vision for the lake’s restoration planning.

Local 152 Negotiations:

Councilman Gubitosi feels the Council needs greater clarity about the issues being negotiated.

Councilwoman DeNoble:

- The Shade Tree Commission is looking to secure a grant to treat the Spotted Lantern Fly.
- Announced the upcoming Tourism events.
- Gave a report of the Board of Education meeting that occurred last week.

Public Comments:

In Person:

Cindy Lukenda, 218 Fourth Avenue, requested better scheduling for Tourism events for 2025 and requested everyone involved in the budget process be in attendance for the adoption hearing.

Shana Greenblatt-Janoff, 414 Monmouth Avenue, thanked Council members for addressing the Local 152 negotiations and expressed concerns there are no updates on this negotiation and the 319 LaReine Avenue property.

Councilwoman DeNoble updated Ms. Greenblatt about the 319 LaReine Avenue property.

Mea Molin, 302 Fourth Avenue, requested the Farmer’s Market event be placed on the Borough Website.

Nancy Meadow, 805 Beach Avenue, voiced complaints about the website and payroll invoices.

Thomas J. Coan, 612 Third Avenue, expressed concerns regarding the 2023 AFS and thanked the Police Chief for the improvement of the new Police uniforms.

Zoom: None

Councilman Gubitosi made a motion to table the Executive Session to the September 11th Council Meeting, seconded by Councilwoman DeNoble.

ROLL CALL:

AYES: DeNoble, Gubitosi, Mahoney, Weber
NAYS: None
ABSENT: Mayor Fox
ABSTAIN: None

THE EXECUTIVE SESSION DID NOT OCCUR FOR THIS MEETING.

ADJOURNMENT:

ON MOTION by DeNoble/Gubitosi to adjourn the Council Business Meeting at 8:30 p.m.

ROLL CALL:

AYES: DeNoble, Gubitosi, Mahoney Weber
NAYS: None
ABSENT: Mayor Fox
ABSTAIN: None

THE COUNCIL BUSINESS MEETING ADJOURNED AT 8:30 P.M.


Erica Kostyz, RMC, CMR
Municipal Clerk