

BOROUGH OF BRADLEY BEACH

REGULAR MEETING MINUTES

July 28, 2020 at 6:30 pm

A regular meeting of the Mayor and Council of the Borough of Bradley Beach was held by means of communication equipment, N.J.S.A. 10:4-8(b), to include streaming services and other online meeting platforms and formal action will be taken on the above date.

CALL TO ORDER

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

Mayor Engelstad requested a moment of silence to remember the 15,820 New Jersey residents who have passed away from the COVID-19 crisis.

Sunshine Law

The meeting has been noticed publicly according to the Open Public Meetings Act requirement for the “Annual Notice”, and posted on the official bulletin board.

ROLL CALL 6:30 pm

Present: Council: Bonnell, Gubitosi, Sexsmith, Weber, Mayor Engelstad
Borough Administrator David G. Brown II
Chief Financial Officer Sandra Rice
Borough Attorney Gregory Cannon
Municipal Clerk Erica Kostyz

ON MOTION by Engelstad/Bonnell to approve the Regular Council Meeting Minutes of July 14, 2020

Councilman Bonnell inquired if the minutes need to be amended due to a document that should have been attached from a group of people protesting the Salt Restaurant project.

Borough Attorney Greg Cannon replied the Clerk received objection documents before and after meetings pertaining the Salt Restaurant project. He continued, minutes are to reflect what occurred at the meeting and any correspondence should be saved in a file maintained by the Clerk. Mr. Cannon further explained letters of objections should be addressed at the microphone at the Council Meeting and while it is the decision of the Governing Body to amend the minutes, as Borough Attorney Mr. Cannon cautioned against turning the Clerk into a recipient for lengthy pages of meeting objections in the minutes and keeping a correspondence file as a permanent part of Public Record and not part of the meeting minutes.

ROLL CALL AYES: Bonnell, Gubitosi, Sexsmith, Weber, Mayor Engelstad
NAYS: None
ABSENT: None
ABSTAIN: None

APPROVED

ON MOTION by Engelstad/Bonnell to approve the Executive Session
Minutes of July 14, 2020
ROLL CALL AYES: Bonnell, Gubitosi, Sexsmith, Weber, Mayor Engelstad
NAYS: None
ABSENT: None
ABSTAIN: None

APPROVED

Administrative Report

Administrator Brown gave a report on the following:

- Code Enforcement: The Borough partnered with Host Compliance, a company monitoring long and short term rentals. The Borough is now prepared to go live to begin enforcement of those properties that are not in compliance with the Borough’s Ordinances. Mr. Brown explained letters of violations will be mailed to property owners not in compliance. If the property owner does not comply after the first letter, a subsequent letter will be mailed. The Borough will initiate court action, if the property owner does not comply with either letter.
- Beach Operations: Mr. Brown stated the beach continues to run well under the conditions of the pandemic. The Borough recently decided to decrease the sale of badges from 3000 to 2000 per day and place all sales on VIPLY, thus reducing the number of badge booths needed at the beach. A memo was issued to all cashiers giving them the option to process the badge sales through VIPLY, to which seven cashiers accepted. The Borough is averaging 7,433 beachgoers over the last two weekends and 2,441 beachgoers on weekdays. The current maximum capacity for the beach is 11,000 people for social distancing purposes.
- Human Resources: Mr. Brown stated the Borough is implementing adjustments in this area and highlighted the resolution for the Governing Body’s consideration on the agenda this evening for payroll services with Paychex. Mr. Brown continued further upgrades for the Borough’s Human Resources information system to include H.R. Administration, an act for the employees, an H.R. Library, time track reporting and analytics.

Public Comment on Agenda items:

Thomas J. Coan, 612 Third Avenue, asked for specific information regarding the Newark Avenue Concession Resolution 2020-196.

Administrator Brown replied the vendor is Amy Russo and the format the format for the for the agreement is a 3 year term with no rent in the first year and \$12,000.00 rent for the second and third years.

Mr. Coan inquired if the vendor will be using the existing trailer or using their own equipment.

Administrator Brown replied the vendor will be using the existing trailer.

Mary Ann Spilman asked for clarification on the difference between a letter of objection signed by numerous people and a petition.

Borough Attorney Greg Cannon replied these types of documents should not normally included in the minutes, however, due to the sentiment of public importance, the largest document (petition) was included with the June 23rd minutes. Mr. Cannon continued, a statement of objection is not a statement appropriate to include in the meeting minutes.

Ms. Spilman asked if a letter of objection should be read at the meeting itself.

Mr. Cannon replied yes and an exception was made for the petition to be included in the June 23rd minutes and reiterated such documents should not normally be included, as minutes are supposed to reflect what occurred at the meeting.

ORDINANCE 2020-13

AN ORDINANCE AMENDING CHAPTER 396: "STORMWATER MANAGEMENT" OF THE BOROUGH'S REVISED GENERAL ORDINANCES TO ADOPT NEW REGULATIONS CONSISTENT WITH AMENDMENTS TO THE NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION'S STORMWATER MANAGEMENT RULES

ON MOTION by Engelstad/Weber to open public hearing on Ordinance 2020-13
ROLL CALL AYES: Bonnell, Gubitosi, Sexsmith, Weber, Mayor Engelstad
 NAYS: None
 ABSENT: None
 ABSTAIN: None

Public Hearing:

Thomas J. Coan, 612 Third Avenue, thanked the Governing Body and the Administrator for keeping up with state regulations. He continued this ordinance will protect the residents and avoid conflict between neighbors.

ON MOTION by Engelstad/Bonnell to close the public hearing and adopt Ordinance 2020-13
ROLL CALL AYES: Bonnell, Gubitosi, Sexsmith, Weber, Mayor Engelstad
NAYS: None
ABSENT: None
ABSTAIN: None

ADOPTED

ORDINANCE 2020-14

AN ORDINANCE ESTABLISHING CERTAIN SALARIES OF CERTAIN OFFICERS AND EMPLOYEES OF THE BOROUGH OF BRADLEY BEACH, IN THE COUNTY OF MONMOUTH, AND THE STATE OF NEW JERSEY AND REPEALING ANY AND ALL OTHER ORDINANCES INCONSISTENT HEREWITH.

ON MOTION by Engelstad/Bonnell to open public hearing on Ordinance 2020-14
ROLL CALL AYES: Bonnell, Gubitosi, Sexsmith, Weber, Mayor Engelstad
NAYS: None
ABSENT: None
ABSTAIN: None

Public Hearing: NONE

ON MOTION by Engelstad/Bonnell to close the public hearing and adopt Ordinance 2020-14
ROLL CALL AYES: Bonnell, Gubitosi, Sexsmith, Weber, Mayor Engelstad
NAYS: None
ABSENT: None
ABSTAIN: None

ADOPTED

CONSENT AGENDA:

ON MOTION by Engelstad/Gubitosi to approve the Consent Agenda
ROLL CALL AYES: Bonnell, Gubitosi, Sexsmith, Weber, Mayor Engelstad
NAYS: None
ABSENT: None
ABSTAIN: None

2020-184 7/28/20 BILL LIST

2020-185 Approval of Annual Renewal of Alcoholic Beverage Liquor License for Portuguese Shamrock, LLC (Establishment Elbow Room Bar & Kitchen).

- 2020-186 Approval of Annual Renewal of Alcoholic Beverage Liquor License for D’Arcy, LLC.**
- 2020-187 Authorizing a Gazebo Deposit Refund for Kelly McGinness.**
- 2020-188 Authorizing a refund for the September Kaleidoscope for Hope Walk/Race.**
- 2020-189 Authorizing a refund to the Cystic Fibrosis Foundation for Bradley Beach Great Strides Walk.**
- 2020-190 Authorizing refunds for the Art Walk Event.**
- 2020-191 Authorizing refunds for Craft Fair Vendors.**
- 2020-192 Authorizing a refund for Seasonal Rental Inspection fees for 314 Park Place Avenue.**

APPROVED

RESOLUTIONS:

Resolution 2020-193 Appointing Recreational Director, Shawn Heeter, to the Community Center Task Force.

ON MOTION by Engelstad/Bonnell to Appoint Recreational Director, Shawn Heeter, to the Community Center Task Force.

ROLL CALL AYES: Bonnell, Gubitosi, Sexsmith, Weber, Mayor Engelstad
 NAYS: None
 ABSENT: None
 ABSTAIN: None

APPROVED

Resolution 2020-194 Authorizing the renewal for a Shared Service Agreement with the County of Monmouth for Public Service Answering Point (PSAP/911).

ON MOTION by Engelstad/Bonnell to Authorize the renewal for a Shared Service Agreement with the County of Monmouth for Public Service Answering Point (PSAP/911).

ROLL CALL AYES: Bonnell, Gubitosi, Sexsmith, Weber, Mayor Engelstad
 NAYS: None
 ABSENT: None
 ABSTAIN: None

APPROVED

Resolution 2020-195 Authorizing an agreement with Paychex for payroll services.

ON MOTION by Engelstad/Bonnell to Authorize an agreement with Paychex for payroll services.

ROLL CALL AYES: Bonnell, Gubitosi, Sexsmith, Weber, Mayor Engelstad
 NAYS: None
 ABSENT: None
 ABSTAIN: None

APPROVED

Resolution 2020-196 Awarding the Newark Avenue Concession.

ON MOTION by Engelstad/Weber to Award the Newark Avenue Concession to Amy Russo for a 3 year lease.

ROLL CALL AYES: Bonnell, Gubitosi, Sexsmith, Weber, Mayor Engelstad
 NAYS: None
 ABSENT: None
 ABSTAIN: None

APPROVED

MAYOR AND COUNCIL REPORTS:

Councilman Weber reported the following:

- Stated the Environmental Commission is looking into Government Energy Aggregation and will hopefully have a resolution for the August 11th meeting to join other towns in this program.
- Mr. Weber stated he is looking forward to getting an additional Code Enforcement Officer.
- Stated there have been numerous conversations between the Governing Body and Administration regarding beachfront rules and regulations enforcement.
- Mr. Weber assured everyone additional ordinances are not needed for recent boardwalk gatherings, loud noise, etc. and stated there are state statutes in place to enforce these issues. He Continued the Governing Body, the Police Chief and the Administrator have

been in discussion to handle these issues.

Mayor Engelstad stated he has been in discussion with the Government Representative with JCP&L and the Representative is in favor of the energy efforts the Environmental Commission is researching.

Councilman Weber confirmed JCP&L will still be the local distributor and will be responsible for the lines in town.

Councilman Sexsmith reported the following:

- Mr. Sexsmith stated this is the busy season for the Fire and First Aid Departments and ambulances have been dispatched several times along with mutual aid paramedics. He continued for the First Aid there have been fifty-six calls.
- The First Aid Squad conducted a decontamination drill utilizing their new decontamination equipment.
- The Fire Department responded to seven requests for service with on structural fire that required mutual aid.
- Mr. Sexsmith commended the team work between the Fire Department and the First Aid Squad under Fire Chief John Zech's leadership.
- Encouraged everyone if possible to make a donation to both organizations as they have lost fundraising opportunities this year due to the pandemic.

Councilman Gubitosi reported the following:

- Stated the Governing Body and the Police Chief are proactively monitoring the beachfront and residents may call the police dispatch and make a complaint anonymously. Mr. Gubitosi encouraged residents to contact the police department or the Governing Body if they see violations occurring.
- The Sylvan Lake Commission is revisiting their Shared Service Agreements with Avon with Sylvan Lake and Fletcher Lake.
- The Sylvan Lake Commission is looking into removing the fence on the east side of the lake.
- An Environmental Group with the assistance of the NJDEP is in the process of researching possibilities to expand finances to restore the west end of Sylvan Lake.
- The Administrator, the Tourism Director and four residents are working on website enhancements.
- Ongoing review with the Borough Zoning Officer for future revisions for Chapter 450 Zoning Ordinances have been taking place.
- The Community Center Task Force met on July 20th to discuss the framework on moving forward with restoration.
- The Bradley Beach Historical Society hosted a Virtual Porch Tour last week that was a great success.
- The Main Street Task Force conducted a Virtual Walkability Tour that was a success.
- Funding for the Maritime Forest Phase III will come from private funding and donations and will not be any cost to the Borough.

Councilman Bonnell reported the following:

- The Quality of Life Committee is looking to form a gardening club to assist the DPW

with landscaping throughout the town.

- Mr. Bonnell stated he had a discussion with the DPW Director regarding issues of improper garbage disposal and drone activity interfering with beach raking.
- Mr. Bonnell stated he feels Bradley Beach is doing an outstanding job handling all of the issues happening this year.

Mayor Engelstad reported the following:

- Encouraged all beachgoers in the weeks ahead to plan ahead and utilize the VIPLY application on the Borough Website to obtain a daily beach badge.
- Apologized to any beachgoers that were recently denied access to the beach due to daily beach badges being sold out and stated the town's first priority is public safety.

Public Comment:

Thomas J. Coan, 612 Third Avenue, stated the following:

- Commended Administrator Brown for his update on the Host Compliance Program.
- Thanked Councilman Gubitosi for his update on the fence removal at Sylvan Lake.
- Mr. Coan enjoyed participating in the Walkability Virtual Tour and commended the representative from the North Jersey Transportation Authority for running a wonderful meeting.

Paul Nashamkin, 411 ½ LaReine Avenue, thanked all residents who participated in the Virtual Porch Tour.

Cindy Kwiatkowski, 200 Ocean Park Avenue, thanked the Governing Body for limiting the number of daily beach badge sales and for the increased beach Police Patrol. Ms. Kwiatkowski also suggested a social media policy for all Borough employees.

Enrique (no other information), inquired he could obtain information regarding the Newark Avenue Concession.

Administrator Brown and Mayor Engelstad replied where to find the information.

William Psiuk, 110 Fifth Avenue, addressed the following issues regarding Ordinance 123 in relation to the beachfront and feels these issues need to be reviewed and possibly changed.

- Badge transfers
- Rules and Regulations
- Swimming at night
- Lifeguard Equipment
- Disposal of litter
- Alcohol on the beach sold by concessions
- Ball playing on the beach
- Bicycles on the beach

Mr. Psiuk's comments went over the five minute time limit for public comments.

Mayor Engelstad advised Mr. Psiuk to forward all further suggestions to him or the Clerk for

further review.

Len Natale, 12 Lake Terrace, thanked the Governing Body for limiting beach badge sales and inquired if the Newark Avenue Gazebo will be put back on the Boardwalk.

Councilman Bonnell replied he will speak with the DPW Director about putting the Gazebo back.

Shana Greenblatt-Janoff, 414 Monmouth Avenue, recommended the Borough Website be updated to state the limited number of daily badges for people coming from out of town and signage for the parking meters stating when badges are sold out.

Councilman Weber stated the website has been updated to state the limited number of badge sales and gave the location where to find the information.

Mary Ann Spilman, 902 Ocean Avenue, read the June 9th letter of opposition for the Salt Restaurant. This went over the five minute time limit for public comments. Please see the letter below placed in the minutes at the advisement of the Borough Attorney.

The residents indicated below collectively and individually object to the proposed commercial use of the former pump house station as a two story full service restaurant. This proposed change is a **major site plan development**, adding 499 square feet to the existing building of 866 square feet and 1274 square feet of roof deck. This use of the property as a commercial restaurant, intended to draw diners from the broader public, is a **new, vastly different and expanded use**, not suitable for, and **not permitted** for, this ocean front property that fronts on already crowded Ocean Avenue in this residential zone. This commercial development greatly changes the family oriented and residential beachfront area that distinguishes Bradley Beach from its more commercially developed and crowded neighboring towns.

These objections are raised now, before any further negotiations are undertaken with the proposed tenant, because neither the Council nor the Planning Board has properly acknowledged that:

1. This commercial development is **not permitted** in the existing Beach Residential zone;
2. The proposed use does not provide municipal services; therefore, the proposal **cannot escape land use review or zoning regulations** simply on the grounds that the building is municipally owned.
3. This proposed development will affect parking and traffic on Ocean Avenue, a county highway; therefore, this proposal **will require** Monmouth county Planning Board approval and **may require** NJ Department of Transportation review, and NJDEP review for potential air quality effects (including odors, visible emissions, use of commercial fuel burning equipment, such as heaters, ovens, generators)
4. While the Planning Board has acknowledged that **CAFRA application is required**, neither the Borough nor the applicant has proposed **a budget** for this application process, including any Borough resources to be used for the reviews, permits and supporting

studies of traffic, parking, sewage capacity, flood management and other permit requirements.

5. The proposed \$5,000 per year in rent must be shown as sufficient to cover any budgeted expenses by the Borough

The Planning Board recommends that this cost be “a topic of discussions and lease negotiation between the Borough Council and Proposed Tenant.” The taxpayers of Bradley Beach have **not approved such an investment** or even been advised of such costs; therefore, no negotiations should proceed until the Borough has estimated and gained budget approval for any costs it will occur in seeking the required zoning exceptions, applications, reviews, permits and supporting studies, as well as any utility connection and usage costs that may accrue to the Borough.

In the course of its appeals, applications and reviews, the Council and/or applicant is requested to address the following concerns: specifically, that this proposal

1. Requires an exception to permitted uses in a residential zone that, if granted, would set a dangerous precedent for further commercialization of this area and for similar incursion into any residential zone in the borough.
2. Requires public access via already congested Ocean Avenue and surrounding beach access roads;
3. Requires truck traffic through this residential zone to supply the commercial restaurant Operations;
4. Requires daily access by garbage and recycle trucks and increases the smell of garbage and the risk of rodent infestation;
5. Requires parking for public and employee access that cannot be met by current parking facilities in this **residential zone**, where most residences do not have driveways, including 18 units in the Naples building that houses working residents with no off-street parking. Like other residents in this zone, they rely on the limited free parking on the west side of Ocean Avenue and on side streets connecting to Ocean Avenue.
6. The noise and congestion caused by constant vehicle access (commercial delivery, disposal) and access by the public to this restaurant, as well as the daily and nightly noise from the rooftop diners:
 - a. changes the character of this family friendly, quiet residential and recreational beach area;
 - b. affects the quiet enjoyment of residents in this zone and of beachgoers who already find it hard to park and access the beach, playground, and mini golf.
 - c. creates a safety hazard for the increased pedestrian traffic crossing Ocean Avenue, for the employees and diners who must cross to the west side to smoke in front of the Ocean Avenue residences, and particularly for the young children that cross to the adjacent playground.

7. A commercial establishment directly connected to the children's playground is a potential security risk by providing a surveillance site where individuals can remain for extended periods to surreptitiously watch children at play, a risk that is exacerbated by proposed alcohol consumption (BYOB).

8. The operation of this commercial restaurant:

a. Creates Sewage disposal capacity that may overwhelm any existing system or flood management system.

b. Creates polluting odors and emissions that will overwhelm the smell of the ocean, for beach goers as well as the residents sitting outside their nearby homes;

c. Replaces ocean views with views of roof top diners.

d. Creates privacy concerns by giving the public direct visibility into the homes, yards, decks and porches of adjacent property owners.

e. Pollutes this quiet area of the beach front with the extra lighting and signs associated with a commercial operation.

g. Has the potential for disorderly conduct and disruption by inviting late night access by the public, particularly with alcohol consumption (BYOB services)

h. Diverts business from our Main Street restaurants and the other businesses that benefit from restaurant related foot traffic.

i. Will negatively affect property values for Ocean Avenue property that is denied ocean views, smells, and quiet beach access, and by locating these and nearby residences next to a high traffic commercial establishment.

j. Locating a permanent commercial building in this flood zone is detrimental to long term planning for flood potential and property damage.

9. The investment and ongoing operational support costs to the Borough is likely significantly greater than the proposed \$5,000 annual rent.

TO CONCLUDE: This major commercial development is not a permitted use in this beach residential zone; and it does not fit with the master plan goals to create more open space and recreational facilities and to provide greater support for Main Street businesses. As stated by many members of the public at the Planning Board meeting, the proposal is for a fine restaurant, and one many of us would enjoy, just not at this location.

Respectfully submitted by the following residents:

John & Menina Boyle

904 Ocean Avenue

Linda Donnelly

803-805 Ocean Avenue

Omneya El-Far	807 Ocean Avenue, unit 4
Cassandra Gomes	908 Ocean Avenue
Jean Hatkins	807 Ocean Avenue, Unit 1
Debbie Hatkins	807 Ocean Avenue, <u>Unit 3</u>
Mike Kretzer	122B Park Place Avenue
Victoria Leahy	Park Place Avenue
Michael Mandina	211 Park Place Avenue
Dave and Louise Millmann	502 Park Place Avenue
Francine Simonson, McNeely Agency	701B Brinley Avenue
Mary Ann Spilman	902 Ocean Avenue
Darin Spilman	906 Ocean Avenue
John Wagner	111 LaReine Avenue
Dan Walsh	1003 Ocean Avenue
Gary and Shelly Winkler	1001 Ocean Avenue

Engelstad/Sexsmith moved to adjourn.
ADJOURNED 7:40 P.M.

Erica Kostyz, RMC, CMR
Municipal Clerk