

BOROUGH OF BRADLEY BEACH

REGULAR COUNCIL MEETING MINUTES

December 28, 2021 at 6:30 p.m.

A regular meeting of the Mayor and Council of the Borough of Bradley Beach was held remotely by means of Communication Equipment on the above date.

CALL TO ORDER

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

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 in the Borough Office.

ROLL CALL 6:30 p.m.

Present: Council: Gubitosi, Sexsmith, Weber, Mayor Fox
Borough Administrator, Kimberly M. Humphrey
Municipal Clerk, Erica Kostyz
Deputy Municipal Clerk, Michele Whille
Borough Attorney Greg Cannon

Mayor Fox gave the following statement:

Welcome to the final meeting of 2021.

As you can see, we are back to ZOOM most likely for the months of January and February until this spike subsides.

We started 2021 in the backdrop of a life-threatening pandemic. Last January, Bradley Beach had amassed 200 COVID cases; with 70 active cases on the first of the year. Twelve months later, there are approximately 550 cases and incurring about 5 cases a day. We are working with the OEM Department, the County, and our Administrative Team and will keep you posted in the short-term. We closed the office Tuesday out of caution and we disinfected the site. We are enhancing some of our policies and procedures and plan to open for business tomorrow.

Before making a motion to approve the minutes of December 14, 2021, I need to clarify that the NJ State Statue 10:4-12 & 13 F cited by Councilman Bonnell at that Council Meeting and is in the minutes we are approving was not in fact being violated. Some of the inferences that Councilman Bonnell made were not accurate. Legal Counsel verified this the next day. I understand Councilman Bonnell feeling we were being unfair and inconsiderate, but we have in fact had facility constraints that Councilman Bonnell was fully aware of. In fact, we were in communication with Councilman Bonnell through the Monday mid-day before the Council meeting and he chose to stop communicating and proceeded to put the Fire Company and members of the Administration in an awkward position and waste the time of the people attending the meeting which was unfortunate.

ON MOTION by Fox/Sexsmith to approve the Regular Council Meeting Minutes for December 14, 2021.

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

APPROVED

ON MOTION by Fox/Sexsmith to approve the Executive Session Minutes for December 14, 2021.

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

APPROVED

Public Comments/Questions on Agenda Items:

Thomas J. Coan, 612 Third Avenue, inquired about the following:

A utilization report to support Resolution 2021-322 Shared Service Agreement with Neptune City for Prisoner Lodging. Mr. Coan also stated the public should have access to view the contract.

Lieutenant Browning stated he would follow up on any available utilization reports.

An Appendix A for Resolution 2021-321 for Back In Time Café signage not being displayed to the public and feels this should be tabled.

Mr. Coan had several Bill List inquiries.

Administrator Humphrey answered Mr. Coan's inquiries.

Mr. Coan requested Mayor Fox recuse himself in the vote for Resolution 2021-321 (Back In Time Café). Mr. Coan feels this a perception of a business conflict.

Mayor Fox replied under advisement of the Borough Attorney, there is not a business conflict.

William Psiuk, 110 Fifth Avenue, inquired about Resolution 2021-317 regarding sidewalk Maintenance.

Mayor Fox answered Mr. Psiuk's inquiry and explained the Grant.

Mr. Psiuk expressed several concerns about Resolution 2021-316 regarding the monopole cell tower.

Conversation ensued between Councilman Gubitosi, Mr. Psiuk and Councilman Weber Regarding the 2003 Ordinance and the lease agreement with Crown Castle.

Nancy Meadow, 805 Beach Avenue, expressed concerns with Resolution 2021-321 (Back In Time Café signage) and 2021-320 (LOSAP Financial Advisor).

Jane DeNoble, 612 Third Avenue, expressed concerns with Resolution 2021-321 (Back In Time Café signage) and allowing a sign in Green Acres territory.

Ordinance Introduction(s): None

Ordinance Adoption(s):

ORDINANCE 2021-32

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

Councilman Gubitosi thanked Administrator Humphrey for taking time to explain the number of new descriptions in the salary schedule.

Councilman Gubitosi requested to have two previous items Grants Manager and Communications/Tourism Director placed back into the schedule.

Administrator Humphrey responded the Ordinance can be amended this evening to include those two job titles.

Borough Attorney Greg Cannon confirmed the ordinance can be amended this evening to include the job titles due to no changes in the positions.

Councilman Weber asked the Administrator for an overview for the purpose of this ordinance.

Administrator Humphrey explained this ordinance is to make sure the Borough salary guide coincides with the current collective bargaining agreements.

ON MOTION by Fox/Sexsmith to open the public hearing for Ordinance 2021-32.

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

Public Comments: None

ON MOTION by Fox/Sexsmith to close the public hearing and adopt Ordinance 2021-32 with an amendment to include the two job titles Grants Manager and Communications/Tourism Director.

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

ADOPTED

ORDINANCE 2021-33

AN ORDINANCE AMENDING CHAPTER 201: “FENCES AND HEDGES” OF THE BOROUGH’S REVISED GENERAL ORDINANCES TO MAKE SAME CONSISTENT WITH LATER REVISIONS AND UPDATES TO CHAPTER 450: “ZONING” OF THE BOROUGH’S REVISED GENERAL ORDINANCES.

Councilman Weber stated this is a clean up of this chapter and nothing is being added or removed.

ON MOTION by Fox/Sexsmith to open the public hearing for Ordinance 2021-33.

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

Public Comments: None

ON MOTION by Fox/Sexsmith to close the public hearing and adopt Ordinance 2021-33.

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

ADOPTED

ORDINANCE 2021-34

AN ORDINANCE AMENDING CHAPTER 425: “TREES” OF THE BOROUGH’S REVISED GENERAL ORDINANCES TO PERMIT THE BOROUGH’S CODE ENFORCEMENT OFFICER TO ISSUE SUMMONSES FOR VIOLATIONS OF SAID CHAPTER.

Councilman Weber stated this ordinance is allowing Code Enforcement to enforce cases that are in violation instead of the Shade Tree Commission .

ON MOTION by Fox/Weber to open the public hearing for Ordinance 2021-34.

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

Public Comments: None

ON MOTION by Fox/Weber to close the public hearing and adopt Ordinance 2021-34.

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

ADOPTED

ORDINANCE 2021-35

AN ORDINANCE AMENDING CHAPTER 450: “ZONING” OF THE BOROUGH’S REVISED GENERAL ORDINANCES TO PERMIT THE BOROUGH’S CODE ENFORCEMENT OFFICER TO ISSUE SUMMONSES FOR VIOLATIONS OF SAID CHAPTER.

Mayor Fox

Councilman Weber stated he is glad this ordinance is being adopted.

ON MOTION by Fox/Sexsmith to open the public hearing for Ordinance 2021-35.

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

Public Comments:

Thomas J. Coan, 612 Third Avenue, inquired if the Zoning Officer will be allowed to issue summonses for zoning violations also as part of this ordinance.

Administrator Humphrey explained the Code Enforcement Officer will work with the Zoning Officer to issue summonses.

Mr. Coan requested a review of construction sites in town by Code and Zoning so the public will be informed of the permits that are approved of what is being built.

Ms. Humphrey confirmed the Code Enforcement Officer and the Zoning Officer will work together to enforce any violations.

ON MOTION by Fox/Sexsmith to close the public hearing and adopt Ordinance 2021-35.

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

ADOPTED

Communications:

- **Memo for Raffle License 2022-1 (On-Premises) for Monmouth County USBC on January 29th from 10:00 am to 12:00 pm and 1:00 pm to 3:00 pm at 1217 Main Street.**
- **Memo for Nicole Acri as Full-Time Clerical Employee.**

ON MOTION by Fox/Weber to move the Raffle License request to the Consent Agenda.

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

CONSENT AGENDA:

Resolution 2021-314 Bill List for December 28, 2021.

Resolution 2021-315 Authorizing On-Premises Raffle License 2022-1 for Monmouth County USBC.

ON MOTION by Fox/Sexsmith to approve the Consent Agenda.

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

APPROVED

Due to technical issues in the beginning of the meeting Mayor Fox allowed for two residents with public comments on the Agenda item 2021-316 that did not get to speak.

Dr. Harold Cotler, 306 Monmouth Avenue, expressed concerns of increased radiation and health risks from the original lease agreement from 2003 with regards to the monopole modification and feels the Borough should revisit the language of the agreement and table the resolution for this evening.

David Critelli, 210 Evergreen Avenue, inquired if there are provisions within the lease that increase the rental fees.

Mr. Cannon gave an overview of the lease agreement for Mr. Critelli.

Councilman Gubitosi requested to see an Engineer Report and to include language in the Resolution that addresses health and aesthetics to Main Street.

RESOLUTIONS:

2021-316 Approving Consent Letter with Dish Network for modifications to the Monopole located at 725 Main Street.

Councilman Gubitosi requested to see an Engineer Report and to include language in the Resolution that addresses health and aesthetics to Main Street.

Further conversation ensued amongst the Governing Body, Borough Attorney and Borough Administrator to table the resolution or make a motion to table the resolution until the end of the meeting pending further explanation from the Borough Engineer referencing the Construction Plans for this modification.

ON MOTION by Fox/Weber to **table** Consent Letter with Dish Network for modifications to the Monopole located at 725 Main Street to the end of the meeting pending further explanation from the Borough Engineer referencing the Construction plans.

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

TABLED TO END OF MEETING

2021-317 Authorizing a Grant Agreement between Bradley Beach Shade Tree Commission and the State Department of Environmental Protection.

ON MOTION by Fox/Weber to Authorize a Grant Agreement between Bradley Beach Shade Tree Commission and the State Department of Environmental Protection.

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

APPROVED

2021-318 Authorizing an Escrow Balance Refund for 412 LaReine Avenue in the amount of \$424.75.

ON MOTION by Fox/Sexsmith to Authorize an Escrow Balance Refund for 412 LaReine Avenue in the amount of \$424.75.

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

APPROVED

2021-319 Authorizing the Adoption of a Purchasing Manual.

ON MOTION by Fox/Sexsmith to Authorize the Adoption of a Purchasing Manual.

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

APPROVED

2021-320 Authorizing the Borough Administrator/QPA to Advertise for Request for Proposals for a 2022 LOSAP Financial Advisor.

Councilman Weber inquired what the cost will be for a LOSAP Financial Advisor.

Administrator Humphrey responded a LOSAP Financial Advisor is required for a LOSAP Program and the cost would vary depending upon the number of participants in the program. Ms. Humphrey also stated the cost for a Financial Advisor would be part of the total LOSAP costs originally calculated.

Councilman Weber asked if the current Borough Financial Advisor appointed can be used for this.

Ms. Humphrey responded no, the Borough will have to use a LOSAP Financial Advisor Specific to the program.

Councilman Gubitosi inquired if every Municipality that has a LOSAP program do this.

Administrator Humphrey replied yes.

ON MOTION by Fox/Sexsmith to Authorize the Borough Administrator/QPA to Advertise for Request for Proposals for a 2022 LOSAP Financial Advisor.

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

APPROVED

2021-321 Permitting for Back In Time Café to place and maintain a sandwich board type sign within the flowerbed at the North corner of Riley Park at the corner of LaReine Avenue and Main Street.

Councilman Gubitosi inquired if the business owner has agreed to any of the conditions in this Resolution.

Mayor Fox replied yes.

Administrator Humphrey stated if the Governing Body agrees to this resolution that is the law that will be enforced.

Conversation ensued between Councilman Gubitosi and Mr. Cannon regarding the language in the resolution being an issue with the NJDEP and the Green Acres Steward for Monmouth County.

Councilman Weber stated there are many good reasons this resolution is the best solution for this signage issue.

ON MOTION by Fox/Sexsmith to permit Back In Time Café to place and maintain a sandwich board type sign within the flowerbed at the North corner of Riley Park at the corner of LaReine Avenue and Main Street.

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

Mr. Cannon stated the resolution failed and the permit is denied due to lack of two thirds majority vote by Mayor and Council.

UNAPPROVED

2021-322 Approving a Shared Service Agreement with the Borough of Neptune City for Prisoner Detainment, Holding and Lodging.

ON MOTION by Fox/Sexsmith to approve a Shared Service Agreement with the Borough of Neptune City for Prisoner Detainment, Holding and Lodging.

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

APPROVED

2021-323 Transfer of Budget Appropriations for the Current Fund.

ON MOTION by Fox/Sexsmith to approve Transfer of Appropriations for the Current Fund.

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

APPROVED

Borough Engineer, Jerry Freda came onto the virtual meeting to discuss Resolution 2021-316 with the Governing Body.

Councilman Gubitosi addressed many concerns within the schematic plans for this modification with Mr. Freda.

Mr. Freda explained what the Engineer is reviewing when receiving telecommunication plans (ex. Zoning, noise, appearance, health risks).

Conversation ensued regarding many items listed in the schematic diagram and what they are. Mr. Freda stated after reviewing the schematics he felt comfortable approving this plan and suggested contacting the agency applying for the revisions to give a presentation/explanation.

Councilman Weber stated due to time constraints that would not be possible.

Mr. Freda stated he meant in the future after moving forward with this resolution.

2021-316 Approving Consent Letter with Dish Network for modifications to the Monopole located at 725 Main Street.

ON MOTION by Fox/Weber to table Resolution 2021-316 to the 1/25 Council Meeting pending further explanation from the Lessee of the Monopole.

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

TABLED

MAYOR AND COUNCIL REPORTS:

Mayor Fox reported the following:

I hope everyone has been enjoying the holiday season, as the new year of 2022 is upon us. I would like to recap briefly 2021 and then foreshadow the upcoming year.

Some good news for our County Board of Commissioners. Last Friday I received a memo of verification to an Open Space Grant for Lake Terrace Park that we were granted for an amount of \$70,000 against an estimated project cost of \$135,000. This includes Playground enhancements, Landscaping and New Fencing. As you may remember, we replaced the sidewalk in front of the parr earlier this year.

2021 started in the backdrop of a life-threatening pandemic. Last January, Bradley Beach had amassed 200 COVID cases; with 70 active cases on the first of the year. We are now at 540 cumulative cases 12 months later, registering about 5 cases a day of late. With life-saving vaccines and a much better understanding of how to manage our lives, here we are again in a critical situation- managing the Omicron surge. This weighs on everything we do; and many of the decisions we make we “tee-up” to the implication of this.

We framed our 2021 initiatives into six “umbrella” areas- Affordability, Capability, Beachfront, Main Street, Parking Improvements, and Infrastructure. We were able to affect over 40 improvements or critical activities to support these six areas; and hence we believe our residents have been positively impacted. We had many successes, a few failures; but overall, I think we improved the lives of our residents.

Two big challenges in 2021 are currently being addressed and will be a focus in 2022. FIRST, Christmas 2021 came early. In mid-December, Cinema Labs took control of the Theater that closed in late 2020; and they have great plans for the site going forward. We will collaborate with that team in ways to enable their success. SECOND, the Church at 319 LaReine Avenue is undergoing an extensive evaluation to assess the possibilities; and is the logical path forward. We will have those answers in the late part of the first quarter 2022.

Last- I would like to again wish all a happy holiday season, whatever you celebrate, and the hope 2022 is a

healthy and prosperous one for our town, our state, and our nation!

Councilman Gubitosi wished everyone the best for 2022.

Councilman Sexsmith reported the following:

- The Fire and First Aid Squad Swearing-in Ceremony has been cancelled for January 1st due to an increase in positive COVID cases and would like to see a luncheon for both departments in the future.
- Mentioned pre-season beach badge sales.
- Wished everyone a Happy New Year.

Mayor Fox announced there may be an extension for the pre-season discount badge sales due to potential office closures.

Councilman Weber reported the following:

- Encouraged everyone to be careful due to a rise in positive COVID cases.
- Requested the public get the same meeting documents to view as the Governing Body.
- The recent tree plantings on Second and Third Avenue were Honor Me Trees and a cost savings to the Borough.
- Mentioned restructuring to the Recreation Department.
- Praised the Shade Tree Commission for their accomplishments for 2021.
- Announced trash pick-up has been rescheduled due to the holiday.
- Reminded everyone to place trash in the trash can and use lids to help keep the town clean.
- Wished everyone a Happy and Safe New Year.

In Person Public Comment:

William Psiuk, 110 Fifth Avenue, thanked the Mayor and Council for tabling Resolution 2021-316

and expressed concerns regarding potential health issues.

David Critelli, 210 Evergreen Avenue, inquired about construction happening at the triangle of Bradley Boulevard and Evergreen Avenue.

Mayor Fox responded it is an Altice Cable box approved in 2019.

Councilman Gubitosi inquired if the resolution for this was passed or tabled.

Clerk Kostyz confirmed the resolution was passed.

Eric Schatz, 202 Evergreen, expressed displeasure with the Altice cable box being constructed on Evergreen Avenue and believed the 2019 resolution was tabled. Mr. Schatz stated the former Mayor would negotiate to place the box elsewhere.

Mayor Fox stated he and the Administrator will contact Altice to discuss alternatives.

Dr. Harold Cotler, 306 Monmouth Avenue, expressed radiation concerns and feels a global account needs to be done.

Mia Mutascio, 401 McCabe Avenue, offered suggestions to maintain the Borough website.

Mayor Fox replied Administration is in the process of making improvements to the website.

Nancy Meadow, 805 Beach Avenue,

- Inquired who was running the virtual meeting
- Requested more meetings
- Thanked Councilman Gubitosi for his service as Council President in 2021
- Complained the Police Department reports to the Mayor and not the Borough Administrator.

Thomas J. Coan, 612 Third Avenue,

- Stated he has objected to the Altice box from the beginning.
- Thanked Councilman Bonnell for the Boardwalk Horseshoe
- Wished everyone a Happy New Year
- Requested more meetings and longer time to speak during Public Comment

Public Comment through Email: None

Resolution 2021-324 Retire into Executive Session to a discuss Litigation Matter.

ON MOTION by Fox/Sexsmith to Retire into Executive Session at 8:35 p.m.to discuss a Litigation Matter.

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

APPROVED

ON MOTION by Fox/Sexsmith to Return from Executive Session at 9:23 p.m.

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

Fox/Sexsmith moved to adjourn.

THE COUNCIL MEETING ADJOURNED AT 9:25 P.M.

Erica Kostyz

Erica Kostyz, RMC, CMR
Municipal Clerk