

BOROUGH OF BRADLEY BEACH

REGULAR MEETING MINUTES

March 23, 2021 at 7:45 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 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.

ROLL CALL 6:30 pm

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

Mayor Fox mentioned summer resident Chris Daley's U-Conn team is doing well.

Mayor Fox announced the Zoom Chat Room will not be used this evening due to inappropriate comments and baseless accusations towards Professionals in the Municipality at the March 9th meeting. Mayor Fox continued while commentary is welcomed and encouraged, it needs to be kept constructive moving forward in future meetings.

Workshop Discussion(s):

- **Marijuana Prohibition Under New Law**

Borough Attorney Greg Cannon stated Zoning Ordinance 2020-5 prohibiting cannabis use in the Borough has been declared null and void by the Cannabis Act. Mr. Cannon explained under the Cannabis Act, it indicates any Municipality within 6 months after adoption can adopt an ordinance prohibiting cannabis businesses with the exception of delivery services within the Municipality's borders. Mr. Cannon stated this ordinance would need to be adopted by August 22, 2021 if the Borough wishes to continue their prohibition. Mr. Cannon explained the prohibition is valid for five years and would need to be renewed upon expiration. Mr. Cannon stated if the Municipality does not adopt a prohibition ordinance, the current Cannabis Act would be in effect & the Borough would have to wait until August of 2026 to adopt a prohibition ordinance. Mr. Cannon advised adopting a prohibition ordinance this year and stated if the Borough decides to go in a different direction in the future, the ordinance can be reversed.

Mr. Cannon stated the Cannabis Act is comprehensive with respect to Police powers in the Municipality and explained the Police Officers enforce cannabis consumption the same as alcohol consumption.

Mr. Cannon recommended updating all of the park and public consumption regulations along with underage consumption regulations to include prohibition of cannabis.

Council Comment on this Workshop item:

Councilman Sexsmith thanked Mr. Cannon for his review of the Cannabis Act and is confident the Borough will reenact the Ordinance adopted last year.

Councilman Gubitosi thanked Mr. Cannon for his thorough summary and mentioned Ordinance 2020-5 addressed restricting cannabis facilities and asked if an amendment would be made to the current Zoning Ordinance to restrict the five Zoning classes.

Mr. Cannon recommended re-adopting the Zoning Ordinance in addition to adopting a Prohibition Ordinance.

Councilman Bonnell suggested focusing on the retail end and feels that is where cannabis can become problematic.

Mr. Cannon agreed and recommended amending all of Ordinance 2020-5.

Councilman Weber thanked Mr. Cannon for his presentation and inquired if the new ordinance will have to go before the Planning Board for a consistency hearing.

Mr. Cannon responded yes.

Public Comment on this Workshop item:

Thomas J. Coan, 612 Third Avenue, asked Mr. Cannon if the Borough will be able to meet the time requirements.

Mr. Cannon responded the Opt-Out is the most important plan to introduce at the next meeting if possible.

Paul Neshamkin, 411 ½ LaReine Avenue, inquired if there was a suggestion to do a referendum on the original Ordinance.

Councilman Weber responded no and stated a workshop was done originally in 2018.

Mr. Neshamkin stated is surprised the Borough is anti-cannabis.

Mayor Fox stated he was not sure of the percentage of Bradley Beach votes for the overall referendum question on the 2020 Election Ballot.

Mr. Weber stated in the original workshop discussion, no one was against medical marijuana however being a neighboring town that is in favor of these facilities for medical

and recreational use, the thought process is that people can go to the next town if they choose to purchase it.

William Psiuk, 110 Fifth Avenue, thanked the Governing Body for re-addressing this and moving this back to the Planning Board for consistency review with the Master Plan.

Mayor Fox thanked Mr. Cannon for his diligence on this and thanked the Council and the public for their constructive input.

Third Party App Based Food Delivery Charge

Mayor Fox hopes to get more data and information on this topic in the next few weeks and gave an overview of what the third party app is and how it affects restaurants financially. Mayor Fox is in the process of getting feedback from restaurant owners in town regarding putting an ordinance in place and stated it would be better for Bradley Beach to do this with other towns for leverage purposes. Mayor Fox stated he will be contacting Hoboken and Jersey City to see if this is beneficial to their towns so far and has reached out to surrounding towns to see if they would be in favor of this ordinance and stated there will be a Round Table discussion with Borough restaurant owners on 3/30/21 to seek feedback from them.

Hoboken Ordinance is attached to the minutes for reference purposes only

Council Comment on this Workshop item:

Councilman Weber stated he is in favor of this ordinance and looking forward to seeing the details.

Councilman Gubitosi stated he is in favor of this ordinance however does not want it to affect the delivery drivers as their jobs are important.

Mayor Fox stated he is looking into this further and agreed with Councilman Gubitosi.

Mr. Cannon requested Mayor Fox find out the enforcement mechanism with this ordinance.

Mayor Fox agreed to do so.

Public Comment on this Workshop item: None

Presentations; Receipt of Bids or Petitions: None

ON MOTION by Fox/Sexsmith to approve the Budget Workshop Minutes of March 9,
2021

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

APPROVED

ON MOTION by Fox/Bonnell to approve the Regular Meeting Minutes of March 9, 2021

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

APPROVED

ON MOTION by Fox/Sexsmith to approve the Executive Session Minutes of
March 9, 2021

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

APPROVED

Mayor Fox congratulated Administrator Brown on his one year anniversary with the Borough.

Administrative Report:

FORMER CHURCH PROJECT

On March 4, 2021, the Administration contracted T&M Associates for \$6,840 to provide the Borough with a Structural Evaluation. This assessment is in progress and a report is expected in April 2021.

The Administration recently received the final draft of the General Specification for the Lead-Based Paint Abatement Project and for the Asbestos Abatement Project at the Former Church from Environmental Testing Consultants. Environmental Testing Consultants prepared the Bid Specifications for \$3,800. The Notice to Bidders is now public on the Borough Website and advertised via the Borough's Official Newspapers. An on-site pre-bid conference and walkthrough of the site will be held on March 25, 2021. Bids will be received on Thursday, April 8, 2021 and opened publicly in Borough Hall and on Zoom.

BOARDWALK HORSESHOE PROJECT

The Borough is out to bid for the second time to receive proposals on the Specifications to Furnish and Deliver Boardwalk Materials. Bids are due Wednesday, March 31, 2021. The Borough is expected to receive at least one bid this go around, however if we do not the Borough in accordance with the Local Public Contracts Law is allowed to negotiate with a local vendor for the materials.

NEWARK AVENUE, CLIFF AND KENT AVENUTES PAVING PLAN PHASE I

Today the Borough held a preconstruction meeting with APCO Construction and deployment of the heavy equipment and personnel is anticipated to start mid-April 2021.

Public Comment on Agenda Items:

Thomas J. Coan, 612 Third Avenue, inquired about an invoice on the Bill List regarding police equipment.

Ms. Rice responded to Mr. Coan’s inquiry.

Ordinance Introduction(s)

ORDINANCE 2021-9

ORDINANCE TO EXCEED THE MUNICIPAL BUDGET APPROPRIATION LIMITS AND TO ESTABLISH A CAP BANK (N.J.S.A. 40A: 4-45.14)

Ms. Rice gave a brief explanation for the purpose of this ordinance.

Councilman Gubitosi asked Ms. Rice about the appropriation amount for this ordinance.

Ms. Rice showed and explained the amounts and percentages in this ordinance via Power Point screen.

ON MOTION by Fox/Sexsmith to introduce Ordinance 2021-9.

ROLL CALL AYES: Bonnell, Gubitosi, Sexsmith, Weber, Mayor Fox

NAYS: None

ABSENT: None

ABSTAIN: None

INTRODUCED

ORDINANCE 2021-10

AN ORDINANCE AMENDING CHAPTER 450: "ZONING" OF THE BOROUGH'S REVISED GENERAL ORDINANCES TO AMEND THE TERMS "COVERAGE, BUILDING" AND "COVERAGE, IMPERVIOUS" IN SECTION 450-4: "DEFINITIONS" FOR CONSISTENCY WITH OTHER RECENTLY UPDATED SECTIONS OF CHAPTER 450.

Councilman Gubitosi explained this ordinance is being introduced to modify two definitions to be consistent with the changes made in Chapter 450-13.

ON MOTION by Fox/Weber to introduce Ordinance 2021-10.
ROLL CALL AYES: Bonnell, Gubitosi, Sexsmith, Weber, Mayor Fox
 NAYS: None
 ABSENT: None
 ABSTAIN: None

INTRODUCED

Ordinance Adoption(s):

ORDINANCE 2021-8

AN ORDINANCE AMENDING CHAPTER 1: "GENERAL PROVISIONS" OF THE BOROUGH'S REVISED GENERAL ORDINANCES TO IMPLEMENT LOCAL SUPPLEMENTAL VIOLATIONS BUREAU SCHEDULE APPROVED BY MONMOUTH COUNTY ASSIGNMENT JUDGE PURSANT TO NEW JERSEY COURT RULE 7:12-4.

Mr. Cannon explained this ordinance establishes a payment schedule for tickets to be paid in court.

ON MOTION by Fox/Sexsmith to open the public hearing Ordinance 2021-8.
ROLL CALL AYES: Bonnell, Gubitosi, Sexsmith, Weber, Mayor Fox
 NAYS: None
 ABSENT: None
 ABSTAIN: None

Public Comments: None

ON MOTION by Fox/Sexsmith to close the public hearing and adopt Ordinance 2021-8
ROLL CALL AYES: Bonnell, Gubitosi, Sexsmith, Weber, Mayor Fox
 NAYS: None
 ABSENT: None
 ABSTAIN: None

ADOPTED

Communications:

- **New Hire Memo for a Senior Landscaper and a Court Violations Clerk**

Mayor Fox stated the Senior Landscaper is a Seasonal, Part-Time position and the Court Violations Clerk is to replace a previous employee.

CONSENT AGENDA:

Resolution 2021-100 Bill List March 23, 2021

Resolution 2021-101 Authorizing a Lien Redemption for Block 76, Lot 8.23.

Resolution 2021-102 Authorizing an Escrow Balance Refund for 510 Fourth Avenue.

Resolution 2021-103 Authorizing a Refund for Certificate of Occupancy Fees for 218 Fourth Avenue.

Resolution 2021-104 Authorizing a Refund for Construction Permit Fees for 613 Second Avenue.

Councilman Weber questioned several items on the Bill List.

Ms. Rice and Mr. Cofone responded to Mr. Weber's inquiries.

ON MOTION by Fox/Gubitosi to approve the Consent Agenda

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

APPROVED

RESOLUTIONS:

Resolution 2021-105 Authorizing a Two Percent Salary Increase for Non-Contractual, Community Development Employees.

ON MOTION by Fox/Sexsmith to Authorize a Two Percent Salary Increase for Non-Contractual, Community Development Employees.

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

APPROVED

Resolution 2021-106 Temporary Budget Appropriations

ON MOTION by Fox/Sexsmith to Authorize Temporary Budget Appropriations.

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

APPROVED

Resolution 2021-107 Authorizing the Form and Sale of General Obligation Bonds.

ON MOTION by Fox/Weber to Authorize the Form and Sale of General Obligation Bonds.

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

APPROVED

MAYOR AND COUNCIL REPORTS:

Mayor Fox reported the following:

- **Asked everyone to continue vigilance during the pandemic and gave a brief report on COVID case numbers.**
- **Mayor Fox gave an update on the status of the 2020 Annual Financial Statement and the 2021 Budget.**
- **Announced the Borough will be holding a series of Virtual Business Round Tables in March and April with businesses and restaurants in town to share ideas, update priorities and discuss future plans.**
- **Announced the Governing Body is starting a two month study to get a recommendation path forward for the LaReine Avenue Church to work towards resolution.**
- **Announced the Bradley Beach Food Pantry Pick-Up is Saturday, March 28th and stated more details are available on the website and Social Media.**
- **The Fletcher Lake Commission met this week to discuss working with Neptune Township on future repairs and improvements.**
- **Gave an update on the Library regarding materials, availability and their 2021 budget and announced the Library Director will be looking into grants for Library repairs and technology.**
- **Gave a report on beach locker availability and commended DPW for building additional lockers for the 2021 beach season.**
- **Mayor Fox stated though not official, it is likely the 2021 Memorial Day Parade will be cancelled, but a Memorial Day Ceremony will be held in Riley Park with details**

to follow.

Councilman Bonnell had no report,

Councilman Gubitosi reported the following:

- **Acknowledged Administrator Brown's one year anniversary and thanked Mr. Brown for all he has done for the town.**
- **The Sylvan Lake Commission will be meeting tomorrow at the Biase Center to discuss future improvements.**
- **Gave an update on Phase III of the Maritime Forest.**
- **Stated progress is being made with the United Methodist Church.**
- **Announced the Shade Tree Commission has been recognized as Tree City USA.**
- **Gave an update on the Website reconstruction.**

Councilman Sexsmith reported the following:

- **Gave Police Activity, Fire Department and First Aid call reports.**
- **Thanked the Mutual Aid Squads for their assistance with the recent structure fire on Ocean Park Avenue.**
- **Gave an update on First Responder vaccinations.**
- **Stated the Fire and First Aid Squad are in need of volunteers.**
- **Commended the residents for their generosity following the recent fire.**
- **Stated items needed for the food pantry pick-up this Saturday.**

Councilman Weber reported the following:

- **Commended the Fire Department for handling the recent fire.**
- **Suggested using a clearer process for the public with regards to handling Workshop items and resolutions on the agenda.**
- **Stated he is not in agreement with disabling the Chat Room during the Council Meeting and suggested explaining the chat is part of the public record to the attendees of the meeting.**
- **Announced the Recreation Department will need a Director.**
- **Announced the Recreation Department has received approval from the OEM to conduct a Summer Recreation Program.**
- **The Recreation Board will be looking for new members due to recent resignations.**
- **Announced The Shade Tree Commission was recognized as Tree City USA.**
- **There will be an Arbor Day Celebration on April 30th at 5:30 p.m. at the Second Avenue Park.**
- **A Green Fair will take place in Riley Park on April 24th.**
- **Announced as per the State, Lifeguards are considered First Responders and are eligible to get the COVID-19 vaccine.**

Public Comment:

MaryAnn Spilman, 902 Ocean Avenue, inquired on the status on the Beachfront

Playground and asked about several pieces of equipment.

Councilman Bonnell and Mayor Fox answered Ms. Spilman's inquiries.

Julie Nutaitis, 605 Newark Avenue, commended the town's generosity toward those affected by the fire and stated she would like to see the town move ahead with the United Methodist Church project.

Allen Rapaport, 512 Newark Avenue, congratulated Administrator Brown for his one year Anniversary, commended the CFO for her work with the Budget and commended the town for their generosity with residents affected by the fire.

Mr. Rapaport expressed concerns with the Community Center project being deterred by the Movie Theater and inquired if the Governing Body has had further discussion with the Theater Group.

Mayor Fox responded there has been no discussion with the Theater Group and the Community Center project and the Movie Theater are completely decoupled.

Paul Neshamkin, 411 ½ LaReine Avenue, congratulated Administrator Brown on his one year anniversary.

Mr. Neshamkin concurred with Ms. Nutaitis and Mr. Rapaport with regards to the Community Center project and expressed concern with the lack of Community Center Task Force discussions. Mr. Neshamkin continued he is in support of both the Community Center and the Movie Theater. Mr. Neshamkin stated he has discussed funding with the Theater Group and has not received a follow up from them. Mr. Neshamkin stated if he does not receive a follow up from them he will invest the funds he planned on using for the Movie Theater into the Community Center instead.

Thomas J. Coan, 612 Third Avenue, congratulated the Shade Tree Commission on their status as Tree City USA.

Mr. Coan inquired if the revenue for the sewer pump sold recently sold by the Borough can be used for the purchase of a new sewer pump and avoid taking the money from the 2021 budget.

Administrator Brown explained that is not possible; once an item is sold the revenue cannot be placed in the current year budget, however it can be used the following year.

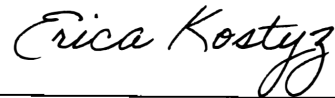
Mr. Coan expressed concern the Zoning and Planning Board videos are not being posted to the website.

Mayor Fox stated he will look into this.

Jack Gentempo, 103 Fourth Avenue, stated he is in favor of moving forward with the Community Center Project.

Fox/Gubitosi moved to adjourn

MEETING ADJOURNED 9:21 P.M.

Handwritten signature of Erica Kostyz in cursive script.

Erica Kostyz, RMC, CMR
Municipal Clerk



**Hoboken
NJ**

CC - Ordinance

Ordinance Adding "Chapter 198: Third Party App-Based Food Delivery Regulations" to the Municipal Code

Information

Department:
Category:

City Clerk
Amendment

Sponsors:

Attachments

Printout

Body

WHEREAS, restaurants in the City of Hoboken have suffered tremendously on account of COVID-19; and,

WHEREAS, third-party app-based food delivery services, charge between 15 and 30 percent of a bill to a local restaurant; and,

WHEREAS, local hospitality businesses are already facing unprecedented financial challenges as a result of the State of Emergency; and,

WHEREAS, all stakeholders must step up to protect the integrity of Hoboken's hospitality industry during this and any State of Emergency; and,

NOW THEREFORE BE IT RESOLVED by the Council of the City of Hoboken that we hereby standby our hospitality businesses and add a new section to our municipal code, helping them during this and any future State of Emergency capping delivery fees from third party-apps.

**198-1
DEFINITIONS**

RESTAURANT: A business in which food and/or beverage preparation and service is provided for individual consumption either on- or off-premise, and in which any service of alcoholic beverages is accessory to the service of food

THIRD-PARTY, APP-BASED FOOD DELIVERY PLATFORM: Any website, mobile application, or other internet service that offers or arranges for the sale of food and beverages prepared by, and the same-day delivery or same-day pick-up of food and beverages from a food service establishment

ONLINE ORDER: An order placed through a platform provided by a third-party app-based food delivery platform for delivery within Hoboken

PURCHASE PRICE: The menu price of an online order. Such term excludes taxes, gratuities, and any other fees that may make up the total cost to the customer of an online order.



**198-2
RESTRICTIONS**

- A. It shall be unlawful for a third-party, app-based food delivery platform to charge a restaurant a commission fee for online, delivery or pick-up order for the use of its services that totals more than 15% of the purchase price for listing, processing and delivery services, or 8% for listing and processing services of such online order while the City of Hoboken is under a state of emergency.
- B. It shall be unlawful for a third-party, app-based food delivery platform to reduce the compensation rates paid to the delivery service driver, or garnish gratuities, as a result of this order going into effect during the duration of this order.
- C. This ordinance shall be in effect during all State of Emergencies.

**198-3
PENALTIES**

- A. Any person found to have knowingly violated this ordinance, and upon conviction may be punished by a fine of not more than \$500 or by imprisonment for not more than 180 days or both such fine and imprisonment.

Meeting History

May 20, 2020 7:00 PM	City Council	Regular Meeting	 Draft
RESULT: TABLED			<i>Next: 6/3/2020 7:00 PM</i>
Jul 8, 2020 7:00 PM	City Council	Regular Meeting	 Draft
REMOVED			

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