

BOROUGH OF BRADLEY BEACH

REGULAR MEETING MINUTES

September 7, 2021 at 6:30 pm

A regular 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.

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 p.m.

Present: Council: Bonnell, Gubitosi, Sexsmith, Weber, Mayor Fox
Borough Administrator Kimberly M. Humphrey
Borough Attorney Gregory Cannon
Municipal Clerk Erica Kostyz

Mayor Fox read the following Office of Emergency Management COVID-19 Mask Policy:

Effective July 6, 2021. The guidance further recommends that individuals not vaccinated continue to wear a mask and social distance when indoors. We ask for conformance to this requirement. This is about protecting fellow citizens and children from the Delta variant.

Mayor Fox reminded residents unable to attend meetings and wish to participate in public comments now have the option to submit their questions and/or comments via email at councilquestionsandcomments@bradleybeachnj.gov.

Mayor Fox wished residents and Borough businesses a Happy Rosh Hashanah.

Presentations:

Mayor Fox read the following Proclamation on behalf of the Bradley Beach Food Pantry recognizing Hunger Action Month.

RECOGNIZING SEPTEMBER AS HUNGER ACTION MONTH

WHEREAS, hunger and poverty are issues of grave concern in the United States, the State of New Jersey, and in the Borough of Bradley Beach; and

WHEREAS, Bradley Beach is committed to taking steps to raise awareness about the need to combat hunger; and

WHEREAS, Bradley Beach is committed to working with the Bradley Food Pantry and with its partner, fulfill (formerly The Foodbank of Monmouth and Ocean Counties), to educate people about the role and importance of the Bradley Food Pantry in addressing hunger and to bring attention to hunger issues; and

WHEREAS, the Bradley Food Pantry operates five days a week to provide food products to those in need; and

WHEREAS, the Bradley Food Pantry routinely serves over 30 families a day, totaling more than 600 families a month, numbers which more than doubled during the height of the pandemic; and

WHEREAS, the Bradley Food Pantry has distributed over 700,000 pounds of food since the beginning of the pandemic, including the more than 30,000 pounds of food donated by Bradley Beach residents during the two borough-wide food drives; and

WHEREAS, the need shows no signs of abating, as the unemployment level is the highest it has ever been in the history of the State and the poverty level for a family of four is \$25,926 with 9.2% of families living below that level; and

NOW, THEREFORE BE IT PROCLAIMED, that the Mayor and Council of the Borough of Bradley Beach, County of Monmouth, State of New Jersey, do hereby recognize September as **HUNGER ACTION MONTH** in the Borough, and call this observance and the work of the Bradley Food Pantry to the attention of its citizens.

ON MOTION by Fox/Bonnell to approve the Open Space Grant Public Hearing Minutes of August 31, 2021.

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

ON MOTION by Fox/Bonnell to approve the Regular Council Meeting Minutes of August 31, 2021.

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

APPROVED

Public Comments/Questions on Agenda Items:

Linda Curtiss, 202 Third Avenue, thanked the Mayor and Council for the Proclamation.

Thomas J. Coan, 612 Third Avenue, inquired about charges on the bill list for concession maintenance and inquired who wrote the contracts as he does not feel the Borough should be responsible for concession maintenance fees.

Ms. Humphrey replied to the concession contracts state the Borough is responsible for concession maintenance and she would find out who the contracts were written by.

Nancy Meadow, 805 Beach Avenue, stated she is not in favor of the Communications item on the agenda requesting a signage exception for Back in Time Café. Ms. Meadow stated the owner of the restaurant did not come forward when the ordinance was in the process of introduction/adoption and feels it unfair to go against the new signage ordinance.

Mayor Fox responded to Ms. Meadow the signage ordinance states an appeal can be done by resolution.

William Psiuk, 110 Fifth Avenue, inquired why resolution 2021-233 (a request to remove a tree at 509 ½ Newark Avenue from a planting strip) is coming before the Mayor and Council for approval.

Mayor Fox explained the reasoning of the resolution is due to the rules in the Shade Tree Ordinance when making an exception.

Further conversation between Mr. Psiuk and the Mayor regarding the ordinance and the reason for possible tree removal.

Thomas J. Coan, 612 Third Avenue, recommended the report from the tree expert regarding the tree mentioned be taken into consideration.

Public Comments/Questions on Agenda Items via Email:

Jack Gentempo, 103 Fourth Avenue

We are in favor of allowing the sign for Back in Time Cafe.

Jon Barratt, 515 Newark Avenue

The 500 block of Newark Avenue no longer has trees in the planting strips save the one mentioned in this agenda item, and I would advocate the tree be permitted to remain if it is deemed to not be causing any issues with overhang, falling limbs, or roots affecting public walk space. I would fully encourage the Bradley Beach Shade Tree Commission to monitor the invasive presence of the Chinese Sumac weed, also nicknamed "Tree of Heaven", which has spread and presented itself as a destructive nuisance to neighbors in this and neighboring towns. This non-native plant is not a tree at all, and its seeds and debris in the form of falling sticks wreak havoc on residents' patios and yards, its pollen stain surfaces and causes breathing issues, and it multiplies rapidly by crowding out other plants native to the region. Thank you!

Michael Hahn, 513 Newark Avenue

Unfortunately, I cannot attend the meeting scheduled for this evening due to the holiday.

I write to express my concern about the proposed plan to remove the tree located in front of the house two doors down from my own on Newark Avenue. The tree provides ample shade, does not

suffer from any disease, and has not disturbed the sidewalk in any way. Additionally, the loss of the tree would deprive neighbors of the aesthetic charm of a mature tree on a street that already has limited tree shade.

Thank you for your consideration.

Allen Rapaport, 512 Newark Avenue

Good afternoon mayor and councilman

I am not able to attend this evening meeting, the Jewish holiday is in progress. On that not I would have hoped that when the schedule was made this would have been considered.

I do want to comment on the item under consideration to remove the only tree on the block where our home is located. This larger tree provides shade and reduces wind to the block. We have no trees of any consequence!

It is my understanding that the tree is healthy.

If every homeowner was able to remove an old growth tree simply for reasons of personal pleasure, well we would have no trees that have leaves or roots in the Borough. Hence, the Borough development a shade tree commission to protect the trees, protect the environment and keep Bradley Beach green

In conclusion, my position is if the tree is not sick or ill, if the tree does not present a hazard to life and property, if the tree cannot be maintained, leave it stand.

I thank the Mayor and Council for the time to be heard.

Councilman Weber replied to Mr. Psiuk's comments regarding Resolution 2021-233 and agrees this resolution should not be brought before the Mayor and Council and further explained the Shade Tree Commission and the Tree Expert's involvement history with the tree at this location.

Further conversation ensued between the Borough Attorney, Mr. Psiuk, the Governing Body and Administrator Humphrey regarding the appeal process in the ordinance, the history of the Shade Tree application for this address, sidewalk replacement and what jurisdiction this situation falls under. The Borough Attorney stated that the Shade Tree Commission has jurisdiction over trees in the planting strip and that the homeowner had 10 days to appeal decision rendered in April. It was decided to continue this discussion later in the meeting.

Ordinance Introduction(s) N/A for 9/7/21

Ordinance Adoption(s): N/A for 9/7/21

Communications:

- **A request from Reenie Van Buren, owner of Back in Time Café located in the Bradley Beach Train Station on Main Street to keep the A-Frame (Sandwich Board) sign in place on Main Street.**

Mayor Fox read the following request from Ms. Van Buren, owner of Back in Time Café.

As the tenant in the train station, BACK IN TIME CAFÉ, I respectfully request permission to keep in place my A-Frame sign on Main Street, as my address is 615 Main Street. I understand

that my sign is more than 10 feet from my front door, but given my address and extremely setback location, my situation is unique.

This type of signage is vital to any restaurant, but particularly mine, due to my location. I have been in business and part of the Bradley Beach Community for 24 years and believe that I have contributed to the betterment of Bradley Beach during that time. The removal of that sign, especially during a pandemic, would be extremely detrimental to my business.

Over the past 24 years, I have shared an amicable relationship with the Borough, including but not limited to sharing the parking lot during town events and supporting the school, police, and library.

I ask you to please consider by request during this very difficult time.

Discussions ensued between the Governing Body, Borough Attorney, and Ms. Van Buren regarding the newly adopted signage ordinance, complaints about the sign location and the sign being out 24/7, the importance of the sign to the business owner, especially with the pandemic and the unique location of the restaurant, passing a resolution with conditions for the placement and hours the sign can be placed in its location to grant Ms. Van Buren's request.

ON MOTION by Fox/Bonnell to open Public Comment regarding this Communications item.

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

NAYS: None

ABSENT: None

ABSTAIN: None

Public Comments on the Back in Time Café sign request:

Joe Kulick, 509 Monmouth Avenue, inquired what the difference between the Café's sign location verses the Smoke Shop's sign location.

Mayor Fox explained the proximity of distance in the ordinance does not comply with the Café's current location of the sign.

Julie Nutaitis, 605 Newark Avenue, feels this is a special circumstance and is in favor of allowing the sign with conditions and compromises from the Governing Body and the business owner.

Mayor Fox asked Ms. Van Buren if she has been able to get full employment for her business since the pandemic.

Ms. Van Buren replied she has not and further explained the importance of having her sign out all of the time, including after regular business hours. Ms. Van Buren also stated the sign is weighted down for security to prevent it from being a hazard during windy or inclement weather.

Bridgette McGuire, 610 Brinley Avenue, agrees there should be a compromise given the unique location of the business and feels there should be conditions for placement and hours

of the sign to be out.

Linda Curtiss, 202 Third Avenue, stated she is in favor of the sign remaining where it is.

Thomas J. Coan, 612 Third Avenue, stated he is not in favor of allowing the sign to stay where it is and feels if one business owner is granted this request this will cause more business owners with sandwich board signs to make similar requests.

Councilman Weber stated he would be willing to grant this exception with the conditions the owner has the sign out during business hours only.

Ms. Van Buren stated it is physically difficult for her to move the sign without assistance which she does not always have.

William Psiuk, 110 Fifth Avenue, suggested a temporary compromise for placement of the sign against the electrical cabinet belonging to the NJDOT, but in the Borough's right-of-way.

Councilman Gubitosi also suggested moving the sign to the grass on the edge of Riley Park.

Councilman Sexsmith stated he is not in favor of having the sign out all of the time.

Mayor Fox asked if annual review, size conformance and putting the sign against the electrical cabinet in the evening would be agreeable for everyone.

Councilman Weber stated he was not in favor of this and feels that could create an issue with other businesses.

Councilman Gubitosi suggested leaving the sandbags out at night and moving the sign.

Ms. Van Buren explained the sandbags are attached to the sign and re-iterated the importance of having her sign out all of the time.

A decision was made by the Governing Body to not pass a resolution at this time and workshop a discussion on this topic on 9/21/21.

CONSENT AGENDA: N/A/ for 9/7/21

RESOLUTIONS:

2021-229 Bill List for September 7, 2021

ON MOTION by Fox/Weber to approve the Bill List for September 7, 2021.

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

APPROVED

2021-230 Authorizing the Municipal Clerk to advertise Request for Proposals for Real Property Data Collection and Verification Services.

Councilman Weber inquired the name of the company used to collect property data.

Mr. Cannon explained the company previously used, Realty Data Systems, contract has expired, hence the reason for the RFP.

ON MOTION by Fox/Weber to Authorize the Municipal Clerk to advertise Request for Proposals For Real Property Data Collection and Verification Services.

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

APPROVED

2021-231 Rejecting all bids in connection with the Drainage and Sump Pump Improvement Project at Monmouth Avenue and Burlington Avenue with Council's authorization to re-bid to secure better pricing.

Councilman Weber inquired why the figures were not aligned with what was budgeted for this project.

Administrator Humphrey explained the estimate for the materials is higher than anticipated.

ON MOTION by Fox/Weber Reject all bids in connection with the Drainage and Sump Pump Improvement Project at Monmouth Avenue and Burlington Avenue with Council's authorization to re-bid to secure better pricing.

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

APPROVED

2021-232 Governing Body Certification of the 2020 Audit

ON MOTION by Fox/Gubitosi to approve the Governing Body Certification of the 2020 Audit

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

APPROVED

2021-233 Approval to remove a tree from the planting strip at 509 1/2 Newark Avenue.

ON MOTION by Fox/Weber to **table** Resolution 2021-233 approving tree removal from the planting strip at 509 ½ Newark Avenue.

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

TABLED

MAYOR AND COUNCIL REPORTS:

Mayor Fox reported the following:

- **Stated the end of the season went well at the beach.**
- **Mentioned the new website enabled Tourism to advertise many great events.**
- **The Borough is at 99.4% of the forecasted beach revenue.**
- **The Borough will be engaging in mutual services with surrounding towns in the near future.**
- **Light Up the Shore will be held on Saturday, September 11th at 8:46 p.m. in honor of 9/11 victims.**
- **The Borough Auditor will be at the 9/21 meeting to discuss the 2020 Corrective Action Plan for the Audit.**
- **The Second and Third Avenue Parking Project began this week.**
- **The handicapped ramp replacement project will be completed by fall.**
- **Upcoming Library events.**
- **Important initiatives to occur within the next four months (Affordable Housing, Compliance, LaReine Avenue Church Assessment, personnel corrective actions and infrastructure projects).**

Councilman Bonnell mentioned the upcoming storm warning for this weekend and advised everyone to use caution if going to the beach.

Councilman Gubitosi reported the following:

- **Confirmed with Clerk Kostyz when the Audit will be available to the public.**
- **Thanked the Administrator and the DPW Supervisor for assisting with the Second and Third Avenue Parking project today.**

Councilman Sexsmith reported the following:

- **Mentioned this evening's meeting falling on a religious holiday prevented the Auditor and several residents from coming to the meeting this evening and stated the Council approved the meeting schedule in December 2020 and need to do better next year.**

Councilman Weber reported the following:

- **The CDC updated their guidance which recommends all people vaccinated or not vaccinated wear masks indoors.**
- **Upcoming Shade Tree Commission projects.**
- **Mentioned the Kite Building Event scheduled for this Saturday.**
- **Mentioned the high surf warning for this upcoming weekend and cautioned everyone**

planning on going to the beach to be careful.

Public Comment:

Julie Nutaitis, 605 Newark Avenue, inquired if the North End of Main Street will get new trees.

Mr. Weber answered Main Street is not getting new trees at this time.

Ms. Nutaitis states she feels the town needs to address beautification.

Joe Kulick, 509 Monmouth Avenue, suggested the eateries on main street get smoke pods to prevent debris on the sidewalk and street. Mr. Kulick also requested clean-up of utility wires around the town.

Nancy Meadow, 806 Beach Avenue, stated her displeasure with the meeting being allowed on Rosh Hashanah, park signage, bicycle enforcement and the website.

Thomas J. Coan, 612 Third Avenue, inquired what the status is for the Sewer Utility Feasibility Study.

Mayor Fox stated the Administrator is meeting with a company on Thursday to discuss this.

Mr. Coan inquired about the 2020 Audit Report and feels it should be made available for public view before the next meeting.

William Psiuk, 110 Fifth Avenue, mentioned several website issues.

Administrator Humphrey responded to Mr. Psiuk and stated changes to the website are being researched to correct issues.

Resolution 2021-234 Retire into Executive Session to discuss a Litigation Matter.

ON MOTION by Fox/Gubitosi to Retire into Executive Session at 8:20 p.m. to discuss a Litigation Matter.

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

APPROVED

ON MOTION by Fox/Gubitosi to Return from Executive Session at 8:33 p.m.

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

Fox/Sexsmith moved to adjourn.

MEETING ADJOURNED AT 8:34 P.M.

Erica Kostyz

Erica Kostyz, RMC, CMR
Municipal Clerk